

IN THE COURT OF HAQ NAWAZ,  
SESSIONS JUDGE/JUDGE SPECIAL COURT, ORAKZAI  
AT BABER MELA

Bail Application No. : 22/4 of 2026  
Date of Institution : 26.01.2026  
Date of Decision : 30.01.2026

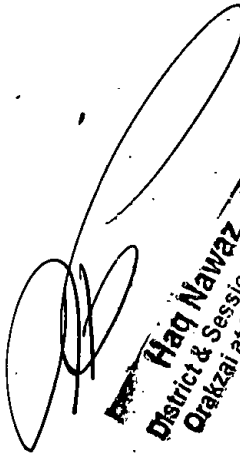
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ORDER

Accused/petitioner present through his relative.

Arguments already heard and record perused.

2. Accused/petitioner, **Qabil Khan** s/o Laiq Shah seeks his post-arrest bail in case FIR No. 106, Dated 30.12.2025 registered u/s 9 (1) 3 (c) CNSA of Police Station Mishti Mela. As per contents of FIR, the complainant, SHO Shal Muhammad along with other police contingent, during surveillance duty of the area, received spy information regarding smuggling a motorcar bearing Registration No. NDP-1274/Orakzai. Upon this information, the complainant laid a barricade on main road leading from Mishti Mela to Kalaya near DHQ Hospital on 30.12.2025 when a blue motorcar arrived there at about 1810 hours. The vehicle was stopped which was boarded by two persons. They were disembarked. The driver of the vehicle disclosed his identity as Qabil Khan s/o Laiq Shah whereas the person occupying the front seat disclosed his name as Qadar Khan s/o Nadir Khan. The complainant found 03 white bags inside the trunk of the vehicle after

  
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opening its tailgate (trunk-lid). From each bag, the complainant recovered 10,000 grams of chars.

Hence, the present FIR.

3. The learned counsel for the petitioner submitted that the accused/petitioner is a sick person and HIV positive which is a serious ailment and life threatening to the petitioner. He needs proper care and treatment which is not possible in jail premises. He further submitted that the disease of the petitioner is also a threat to the lives of other prisoners in jail. He relied on different judgments of the superior courts and requested for examination of the petitioner through medical board.

4. On the other hand, the learned Sr. PP opposed the application and submitted that the disease in question is neither contagious in nature nor incurable in jail premises. He, therefore, submitted that the petitioner is not entitled to the concession of bail on medical grounds.

5. After hearing both the parties and perusal of the record, it was found that the judgments relied upon by the counsel for the petitioner do not pertain to Human Immune Deficiency Virus (HIV). Secondly, the petitioner himself has annexed a laboratory test from Agha Khan University Hospital, Karachi for July, 2020 which was negative for HIV. A huge

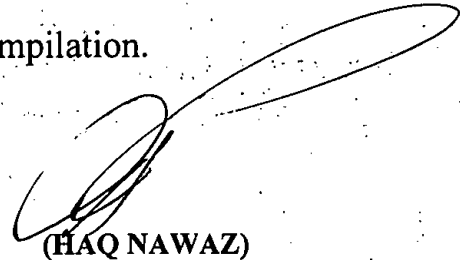
quantity of chars has been recovered from the vehicle, which was driving by the accused/petitioner at the relevant time and thus the same is prima facie to be considered in his conscious knowledge. The offence is punishable with imprisonment for life; thus, the same falls within the prohibitory clause of section 497 CrPC. The role of present accused, being driver of the vehicle, is differentiable from the co-accused who has been admitted by the Hon'ble High Court to bail. All these facts disentitle the accused/petitioner from the concession of bail at this stage of the case. Accordingly, for the stated reasons, bail petition in hand stands dismissed being meritless.

6. Copy of this Order be placed on police/judicial file.

File of this Court be consigned to record room after its necessary completion and compilation.

**Announced:**

30.01.2026



(HAQ NAWAZ)  
Sessions Judge/Judge Special Court,  
Orakzai at Baber Mela