

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Muhammad Ali Mazhar
Justice Musarrat Hilali
Justice Shahid Bilal Hassan

Crl.M.A.1833/2026

(Application for insertion of additional sections)

Crl.P.L.A.575/2026

(Against the order dated 10.03.2026 passed by the High Court of Balochistan, Quetta in Crl. Bail. Application No.36/2026)

Muhammad Akbar

...Applicant(s)

Versus

The State thr. P.G Balochistan

...Respondent(s)

For the Applicant(s) : Mr. Kamran Murtaza, Sr. ASC

For the Respondent(s) : Mr. Ameer Hamza, APG Balochistan
Mr. Baqir Shah, State Counsel
Balochistan
Muhammad Ajmal, AD/I.O

Date of Hearing : 22.07.2026

ORDER

Muhammad Ali Mazhar, J.- The post arrest bail was granted to the petitioner vide order dated 16.04.2026 passed by a learned Two Member Bench of this Court, with one of us (Musarrat Hilali, J) heading the bench.

2. The FIR No.08 of 2026 in which bail was applied for was originally lodged under Sections 379, 420, 274, 275, 276 of

Pakistan Penal Code **(PPC)** read with Sections 23 and 27 of the Drugs Act, 1976 at Police Station New Sariab, Quetta. After considering the arguments advanced by the learned counsel for the petitioner and the Additional Prosecutor General Balochistan namely Mr. Baqir Shah, the learned bench for the reasons to follow, granted post-arrest bail to the petitioner on furnishing bail bonds to the tune of Rs.1,00,000/- with two sureties in the like amount to the satisfaction of the Trial Court.

3. When the bail order was issued by this Court for compliance, it surfaced on record that the prosecution has modified the same FIR and deleted Sections 274, 275, 276 of PPC and Sections 23 and 27 of the Drugs Act, 1976 and in lieu thereof, added Sections 409, 471, 468, 467, 420, 109 of PPC read with Section 5 (2) of the Prevention of Corruption Act, 1947. The modified FIR has been brought on record by the counsel for the petitioner through Crl.M.A.No.1833 of 2026.

4. On the last date of hearing, we issued notice to the Prosecutor General, Balochistan, as well as the Investigating Officer (I.O). Today, Mr. Ameer Hamza, Additional Prosecutor General, is present with Muhammad Ajmal, I.O of the case. When we confronted Mr. Baqir Shah, State Counsel and I.O who were present in this Court on the date of hearing when the petitioner was granted bail as to when the new sections of PPC were inserted in the FIR, they responded that the said addition was made on 15.01.2026. When we called upon them to explain as to why this modified FIR was not brought on the record of this Court when the bail was granted on 16.04.2026, they completely failed to give any response or any plausible reason. Furthermore, they could not justify the deletion of Section 23 and 27 of the Drugs Act 1976 from the FIR when the initial allegation against the petitioner was transporting the expired drugs with alleged violations of the Drugs Act 1976.

5. At this juncture, we asked the Investigating Officer as to what new evidence was brought on record which necessitated the insertion of Sections 409, 471, 468, 467, 420, 109 of PPC read with Section 5 (2) of the Prevention of Corruption Act, 1947. He simply informed us that four statements of witnesses were recorded under Section 161 Cr.PC and when we again asked him to explain any cogent or plausible reason for deletion and insertion of new sections in the FIR, he simply informed us that the prosecuting Deputy Superintendent of Police, Quetta, sought the opinion of the Deputy Inspector General of Police, Quetta/SP (Legal), who opined to delete and add new sections. At the same time, we asked the learned Additional Prosecutor General that whether any opinion was sought from the prosecution agency before such deletion and insertion, he also responded in the negative.

6. It appears from the conduct of prosecution that in order to complicate the case with some ulterior motives, the prosecution acted unfairly and added certain sections without realizing the effect of deleting the Sections of the Drugs Act 1976. Another aim may be to frustrate and deprive the petitioner from concession of bail despite granting of bail by this Court.

7. We cannot say much at this stage because the matter is pending in the Trial Court and we do not want that the Trial Court while deciding the case should be influenced by any observation made by this Court. The fact remains that the main motive seems to frustrate the bail order passed by this Court. If the said sections were added earlier, then the prosecution should not have concealed or hidden this fact from this Court and due to this concealment, the possibility cannot be ruled out that new sections of PPC were added after the order of this Court to deprive the petitioner of bail. We are sanguine that the new section/offence can be inserted, provided that something was gleaned to the prosecution on investigation of crime but not on

the whims of prosecution. Unfortunately in this case, the prosecution has not acted seriously and if any insertion was made earlier than the date of granting bail, this should have brought on the record for knowledge of this Court for consideration without playing hide and seek. Due to such callous conduct, the petitioner who was granted bail by this Court on 16.04.2026 is still behind the bars.

8. In the present situation, with divergent pleas of prosecution as well as the insertion and deletion of new and old sections of PPC in one and the same FIR during trial, the case of the petitioner has otherwise been made out to be a case of further inquiry. The prosecution is itself confused regarding the culpability of the petitioner due to changing stances. Despite repeatedly asking to demonstrate the evidence/material collected by I.O during investigation, he failed to point any material to reasonably believe that the petitioner is involved in the offence subsequently added. The case of further inquiry pre-supposes the tentative assessment which may create doubt with respect to the involvement of accused in the crime. It is well settled that the object of a trial is to make an accused face the trial, and not to punish an under trial prisoner. The basic idea is to enable the accused to answer criminal prosecution against him rather than let him rot behind bars. Whenever reasonable doubt arises with regard to the participation of accused in the crime or the truth or probability of the prosecution case as well as the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail and in such a situation it would be better to keep him on bail than in jail during the trial. Unless a full-dressed trial is conducted by the trial Court for the offences mentioned in the FIR as well as the report submitted under Section 173 of Cr.P.C with the compendium of old and news section of PPC both, the guilt of the petitioner may not be proved.

9. After hearing the learned counsel for the petitioner, Additional Prosecutor General, State Counsel and I.O, we are of the firm view that the case of the petitioner requires further inquiry, therefore the bail granted to the petitioner vide order dated 16.04.2026 in FIR No. 08 of 2026 is extended/granted in newly added sections of PPC in the one and same FIR also on the same terms and conditions. The Crl.M.A.1833/2026 is also disposed of accordingly. The observations made in this bail order are tentative in nature and shall not prejudice the case of either party while deciding the case on its own merits.

Judge

Judge

Judge

Islamabad

22.07.2026

Approved for reporting