

Order Sheet

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**CP No. D- 898 of 2025**  
[Ghulam Hussain v. The State]

**Before:**

Mr. Justice Abdul Mobeen Lakho  
Justice Ms. Sana Akram Minhas

Mr. Mian Taj Muhammad Keerio, Advocate for Petitioner  
Mr. Muhammad Ismail Bhutto, Addl. A.G.  
Mr. Irfan Ali Talpur, D.P.G.

Date of Hearing  
& Decision : 23.06.2025

**ORDER**

**ABDUL MOBEEN LAKHO, J.** Through this Constitutional Petition Petitioner Ghulam Hussain seeks bail in Crime No. 73 of 2025 registered at Police Station Tando Adam district Sanghar under Sections 9(i)(3)(c) of the Control of Narcotic Substances Act.

2. Brief facts of the case are that the complainant received information that the petitioner was selling charas near Ibrahim Shah Dargah. He along with his subordinate staff proceeded towards the pointed place, apprehended the Petitioner and recovered 2000 grams of charas. Such FIR was registered against him.

3. Learned counsel submits that earlier the petitioner moved bail application before learned Additional Sessions Judge-I / MCTC SPL Case Narcotics Substance Act Tando Adam whereby the said application was dismissed being not maintainable under Section 35 of Sindh Control of Narcotic Substances Act, 2024 Sindh Act, 2024, hence the petitioner having no other efficacious remedy has filed the instant Constitutional Petition praying that the petitioner may be enlarged on bail as he has been falsely implicated by the police in the instant case.

4. On merits learned counsel submits that the petitioner has not committed any offence, however, he has been falsely implicated by the Complainant party within mala fide intention and ulterior motives; that there is no independent evidence to establish the involvement of petitioner in the alleged

crime and the story narrated in the FIR creates serious doubt and in such cases bail is a rule and its refusal is an exception; that no independent person has been cited as witness; that total quantity of 2000 grams of charas has been recovered which were divided in four pieces and only 10 grams from each piece (i.e. 40 grams) has sent for chemical examination and the remaining quantity has not been sent for chemical examination which creates doubt about the authenticity of alleged recovered property; that the FIR is delayed about one hour without any plausible explanation; that the petitioner has been involved in the present case at the instance of one landlord namely Mithano Rajar whom the petitioner refused to work for him; that in the present case neither any video has been recorded by the Complainant party to give weight to the recovery proceedings; that there is clear violation of Section 103 Cr.P.C. as well as Section 21 & 22 of Narcotics Substance Act as no private person was cited as mashir.

5. Learned APG as well as learned A.A.G. have vehemently opposed the bail on the ground that the petitioner is nominated in the FIR; accused is fully connected with the crime and such crime is against society and recovery has been effected from him and the accused was arrested at spot. He lastly prayed for dismissal of bail application.

6. Heard arguments.

7. Admittedly the petitioner was arrested on 6<sup>th</sup> April, 2025 and a huge quantity of 2000 grams of charas was recovered from him. The Chemical Report received is in positive. The progress report received from the trial court shows that the trial is proceeding without any unnecessary adjournment. The tentative assessment of available record reflects that the applicant is nominated in the alleged offence.

8. The unchecked spread of narcotic substances such as charas, methamphetamine (commonly known as 'ice'), and other illicit drugs has become a pervasive menace to society, posing a direct threat to public health, law and order, and the moral fabric of the nation. These substances have a particularly devastating impact on the youth, eroding their potential and fuelling a cycle of addiction, crime, and despair. The societal consequences are far-reaching and catastrophic-from broken families and lost productivity to increased burden on the healthcare and criminal justice systems. The courts cannot remain oblivious to this growing epidemic, and must, within the bounds of law, exercise caution and restraint while considering bail in cases

involving the trafficking or possession of such dangerous substances. In the present case, the recovery effected from the accused involves a considerable quantity, falling within the prohibitory clause of Section 497(2) Cr.P.C. No plea of enmity or false implication has been raised by the accused, nor does the record suggest any mala fide on the part of the raiding party.

9. It is contended that the recovery proceedings were not video recorded as contemplated under Section 17(2) of the CNSA. However, the said provision, when read contextually, is directory in nature and intended to enhance transparency-not to create a rigid procedural requirement. The absence of a video recording, particularly when other convincing and corroborative evidence is available, does not by itself vitiate the prosecution's case or entitle the accused to bail at this stage. Moreover, the practical implementation of such a requirement presents significant difficulties: police officers are not provided government-issued devices for recording, and using personal mobile phones raises serious issues of privacy, ownership, and evidentiary handling. Even if the video clip is transferred to a USB device-for instance, one provided by the department-it does not guarantee reliability or eliminate the potential for tampering, manipulation, or forensic dispute. Such measures may create an illusion of transparency without materially strengthening the evidentiary value of the recovery. Therefore, the absence of video footage, in and of itself, is insufficient to negate the otherwise credible material collected during the seizure. At this stage, the recovery of a substantial quantity of narcotics and the attendant circumstances weigh heavily against the grant of bail. At the bail stage, only a tentative assessment is required, based on the material that connects the accused with the alleged offence.

10. For the above reasons, the instant Constitutional Petition for pre-arrest bail was dismissed by short order in open court today., while directing the trial court to conclude the trial and dispose of the case within two months.

JUDGE

JUDGE