

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

Constitution Petition No.D-1085 of 2025

**Before:**

***Mr. Justice Yousuf Ali Sayeed;***

***Mr. Justice Abdul Hamid Bhurgri.***

Petitioner : Salahuddin Jalalani @ Balocho son of  
Habibullah Jalalani,  
through Mr. Khadim Hussain Laghari,  
Advocate.

Respondents : Province of Sindh and 3 others,  
through Mr. Khalid Hussain Lakho,  
Deputy Prosecutor General.  
Mr. Muhammad Ismail Bhutto, Additional  
Advocate General Sindh.

***Date of Hearing:*** 22.07.2025.

***Date of Order.*** 22.07.2025.

**ORDER**

**Abdul Hamid Bhurgri, J.**- The petitioner by filing this Constitution Petition seeks pre-arrest bail in Crime No.534 of 2024 registered at Police Station Sakrand, District Shaheed Benazirabad under Section 9(i)-3(c) of the Sindh Control of Narcotic Substances, Act, 2024 in view of the embargo contained in Section 35(1) of the Sindh Control of Narcotic Substances Act, 2024. Reference is made to the judgment dated 22.04.2025, passed by a three-member bench of this Court in Constitutional Petition No. D-937 of 2025.

2. It is the prosecution case that on 05.12.2024, at 2000 hours vide entry No.39, the complainant together with his subordinate staff left PS for patrolling. After patrolling different places, when they reached Peer Zakir 01 Sakrand, complainant received spy information that accused Sallahuddin alias Balocho, Allah Wassayo, Muqem and Nadeem are selling charas at the shop of accused Sallahuddin alias Balocho in village Sahab Khan Jalalani, hence rushed and reached the pointed place at 2140 hours, where they saw four persons through light of government vehicle and they were identified to be Sallahuddin alias Balocho, Allah Wassayo, Muqem and Nadeem. Seeing police party, all accused eluded by throwing white plastic shopper, which was secured and on opening, it was found containing two pieces of charas, which were weighed to be 1910 grams including shopper. Property was sealed and after preparation of such

memo, complainant brought the recovered property at PS, where instant FIR was lodged.

3. Learned counsel for petitioner submitted that neither petitioner was apprehended at spot nor did recovery was affected from his exclusive possession but one shown has been foisted upon him. The police are pursuing the arrest of petitioner with mala fide intention. He further submitted that there is no independent evidence connecting the petitioner with alleged offence and the story narrated in the FIR is highly improbable and concocted, creating serious doubts about the prosecution's truthfulness and admittedly, there was no independent or public witnesses (mashirs) present during the alleged recovery but only the police officials, who are subordinate to the complainant were introduced as mashirs/ witnesses. He lastly contended that there is apprehension of the petitioner being arrested and humiliated at the hands of police, if his interim bail is not confirmed.

4. Learned D.P.G has opposed grant of bail on the ground that the petitioner has failed to show any enmity and/or mala fide on the part of police. Learned Additional A.G. adopted the arguments of learned D.P.G. However, they both conceded the petitioner having no previous criminal record.

5. We have heard learned counsel for the petitioner, learned A.A.G, learned D.P.G and perused the material available record.

6. Admittedly, neither petitioner was arrested at spot nor alleged contraband was recovered from his exclusive possession, however, seeing police party, he was shown to have evaded from the scene of alleged recovery, no specific allegations have been leveled against petitioner; it is also surprising that none from four alleged accused has been arrested by police at spot. Even otherwise, the alleged offence of recovery is punishable with imprisonment which may extend to fourteen years, but shall not be less than nine years. It is, however, a settled principle that at bail stage, lesser prescribed sentence is to be considered.

7. Moreover, the alleged recovery is reported to have occurred in the otaq of village, and the police party was allegedly in possession of prior intelligence regarding the petitioners' possession of contraband material. Nevertheless, the police failed to associate any neutral or independent witness at the time of the alleged recovery. It is a foundational principle of

criminal law that when the prosecution's case rests solely upon official testimony and lacks corroboration from impartial and independent witnesses, the benefit of the doubt must necessarily go to the accused. In this context, reliance is placed upon the precedent set in ***Muhammad Arshad v. The State (2022 SCMR 1555)***. Additionally, the petitioner do not have any prior criminal record and, therefore, he cannot be classified as habitual offenders.

8. Moreover, in principle, bail does not mean acquittal of the accused but only a change of custody from police to the sureties, who, on furnishing bonds, take responsibility to produce the accused whenever required to be produced. On the proposition above, we are fortified with the decision of Supreme Court in the case of ***Haji Muhammad Nazir v. The State (2008 SCMR 807)***.

9. Prima facie, the allegations against the petitioner require further inquiry. While the testimony of official witnesses may carry the same evidentiary weight as that of private witnesses, their credibility must still be subjected to rigorous scrutiny during trial.

10. In view of the foregoing considerations and above reasons, we by our short order of even date, confirmed on same terms and conditions, the pre arrest- bail granted to the petitioner on 16.06.2025 in Crime No.534 of 2024 registered at Police Station Sakrand, District Shaheed Benazirabad for offence punishable under Section 9(i)-3(c) of the Sindh Control of Narcotic Substances, Act, 2024.

11. The learned trial Court is directed to proceed with the matter expeditiously and conclude the same preferably within a period of two months. In case of any default on the part of the petitioner, the trial Court shall be at liberty to cancel the bail so granted.

12. It is clarified that the observations recorded hereinabove are merely tentative and shall not prejudice the learned trial Court in adjudicating the case on its merits.

*Judge*

*Judge*