IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD

CP No. D– 843 of 2025

[Asif v. The State]

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

Petitioner/Accused	:	Through, Mr. Naseer Ahmed Samoo, Advocate
Respondent	:	Mr. Shahid Ahmed Shaikh, and Mr. Muhammad Ismail Bhutto, Addl. A.G.
Date of Hearing	:	**24.06.2025**
Date of Decision	:	**24.06.2025**

ORDER

ABDUL MOBEEN LAKHO, J: The Petitioner/Accused was booked under FIR No. 148 of 2025, registered at Police Station Qasimabad C.P Nasim Nagar Hyderabad, under Sections 9(1) 3(b) of the *Sindh Control of Narcotics Substances Act, 2024* (**"Act 2024"**). Having been taken into custody, he has approached this Court seeking post-arrest bail.

2. The Petition for post-arrest bail has been submitted before this Constitutional Bench pursuant to the Order dated 22.04.2025, passed in CP No.D- 937/2025 (*Syed Sahir Hasan v. Province of Sindh & Others*) by a Full Bench of this Court, which affirmed that, despite the prohibition on the grant of bail under the Act 2024, this Bench retains jurisdiction to hear bail applications filed through Constitutional Petitions.

3. Brief facts of the case are that on 16.04.2025 at 2330 hours, SIP Ghulam Abbas Bajeer recovered 520 grams of charas. Consequently, the aforesaid FIR was registered against him.

4. We have heard the arguments advanced by the learned Counsel for the Petitioner/Accused as well as learned Additional Prosecutor General and learned Additional Advocate General and have carefully perused the record.

5. At the outset, we observe that the Petitioner's arrest was made under the provisions of the Act, 2024, which, by virtue of Section 35, expressly bars the grant of bail and excludes the applicability of Sections 496 and 497 of the *Code of Criminal Procedure, 1898*. In these circumstances, the Petitioner has approached this Court under its constitutional jurisdiction for the grant of bail.

6. In ***Khan Asfandyar Wali v. Federation of Pakistan*** **(PLD 2001 SC 607)**, the Supreme Court held that where a statute bars the grant of bail during trial, the Petitioner nonetheless retains the right to seek relief before the High Court under its constitutional jurisdiction.

7. As per the contents of FIR, 520 grams of charas was allegedly recovered from the possession of petitioner. Therefore, he was arrested in the instant case and recovered narcotics, which, prima facie, were secured in safe custody. According to the Counsel for Petitioner and learned Additional Prosecutor General, based on the alleged recovered quantity, the prescribed sentence under the relevant statute is imprisonment for a term extendable to nine years, but shall not be less than five years, along with a fine that may be up to Rs. 1,00,000/-.

8. It is a well-established principle that bail in narcotics-related offences is to be granted sparingly, given the grave threat such offences pose to society, particularly to the youth. This rationale underpins the statutory bar on the grant of bail under the Act 2024. Nonetheless, in the present case, the relatively minor quantity of the recovered substance warrants consideration in favour of bail rather than its outright refusal. What weighs heavily in our deliberation, however, is the fact that the Petitioner has remained in custody since 16.04.2025, and only the charge has been framed against him.

9. In response to our query, the learned Additional Prosecutor General submitted that the Government of Sindh has, to-date, neither established the special courts nor appointed judges as required under Section 30 of the Act 2024. However, in our view, the non-establishment of special courts cannot serve as a justification for delaying the trial of cases, particularly in light of the proviso to Section 30(3), which specifically addresses this contingency in the following terms:

30. Establishment of special court:

(1) ... ...
(2) ... ...
(3) ... ...

Provided that until the Special Courts are established under this section, the existing competent court shall continue to perform its functions for the speedy disposal of narcotics cases.

10. Given the lack of progress in the trial, the Petitioner is faced with the very real prospect of prolonged incarceration. Such a situation amounts to a violation of the Petitioner's fundamental rights, including the right to a speedy trial, which, under Section 35(2) of the Act 2024, mandates conclusion of the trial within six months. Considering also the relatively minor quantity of narcotics allegedly recovered, we are of the view that the grant of post-arrest bail to the Petitioner is justified.

11. Accordingly, the Petitioner is granted post-arrest bail upon furnishing surety in the sum of Rs. 1,00,000/- (Rupees One Lac) along with a personal bond in the like amount to the satisfaction of the Additional Registrar of this Court. The Petitioner is directed to ensure his presence on each and every date of hearing without fail before the Trial Court.

12. The Petition stands disposed of in the above terms.

JUDGE

JUDGE