

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Petition No.D-733 of 2025

Date of hearing	Order with signature of Judge
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Before:
Mr. Justice Muhammad Saleem Jessar
Mr. Justice Riazat Ali Sahar

Petitioner : **Muhbat s/o Allah Rakhiyo Kosh** through Mr. Karamullah Chachar, Advocate.

The Respondents: **The State and Province of Sindh** through M/s Zulfiqar Ahmed Jatoi, Additional P.G and Zulfiqar Ali Naich, Assistant A.G.

Date of Hearing : **09-07-2025**
Date of Decision : **09-07-2025**

O R D E R

RIAZAT ALI SAHAR, J. By way of this petition, petitioner Muhbat Kosh seeks his release on post arrest bail in crime No.38 of 2025 under section 9 (i), SR 3(a) Narcotic Act, 2024, registered at Police Station Wasti Jeewan Shah, for allegedly possessing 200 grams of Charas.

2. Since facts of the prosecution case are already mentioned in the FIR as well as in the memo of petition; therefore, there is no need to reproduce the same. Reliance is placed on the case of **Muhammad Shakeel v. The State & others** (PLD 2014 SC 458).

3. Record reflects that challan was submitted by the police and now case is pending before the Court of 1st Civil Judge & J.M Ubaru. Since the statute does not provide a specific provision for filing a bail application, and there being no alternate remedy, the petitioner has maintained this petition.

4. Learned counsel for the petitioner argued that the petitioner is innocent and has nothing to do with the alleged offence and the alleged recovery of substance has been foisted upon him by the police. He further alleged that recovery of contraband substance, viz. Charas weighing 200 grams, is a meager quantity. He next submitted, although the punishment for offence under the Sindh CNS Act, 2024 is “may extend to five years, it shall not be less than ten months”. Since, the

lesser quantum of sentence has been provided which does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C. However, he contended that the case against the petitioner requires further inquiry and prayed for grant of bail.

5. Learned Law Officers, in view of above facts and circumstances, have recorded their no objection.

6. We have heard learned counsel for the petitioner as well as law officers and have gone through the material made available before us on record.

7. Allegedly, the petitioner has been nominated in the FIR, and recovery of 200 grams of contraband substance, viz. Charas, is shown to have been effected from his possession. However, the punishment provided by law for the said offence is the imprisonment which may extend to five years but it shall not be less than ten months. Hence, the alleged offence with which the petitioner is charged does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C, thus making bail the rule and jail the exception.

8. In the circumstances and in view of above legal as well as factual position of record the petitioner has succeeded to make out a good *prima facie* case for grant of bail. The case of petitioner is purely covered by Section 497(2) Cr.P.C. Accordingly, instant Petition was **allowed** by our short order dated 09.07.2025, whereby the petitioner **Muhbat Kosh** was ordered to be released on bail subject to his furnishing solvent surety in the sum of **Rs.50,000/- (Fifty Thousand)** and P.R bond in the like amount to the satisfaction of the 1st Civil Judge & Judicial Magistrate, Ubauro/trial Court, as the case may be. These are the reasons in support of our above short order.

9. Needless to mention here that the observations recorded hereinabove are tentative in nature and shall not, in any manner, prejudice or influence the trial Court during the adjudication of the case.

JUDGE

JUDGE