

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Cr. Bail Appln. No. S-769 of 2025

Applicant : Imran Ali son of Mehar-u-ddin bycaste
Chohan
Through Mr. Muhammad Nasir Malik
Advocate

The State : Through Mr. Mansoor Ahmed Shaikh,
Deputy Prosecutor General.

Date of Hearing : 10.09.2025
Date of short Order : 10.09.2025
Date of detailed order : 11.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Imran Ali seeks post arrest bail in a case bearing crime No. 47/2025, offence under Sections 9(1), 3(b) Sindh CNS Act, 2024, registered at Police Station Bhiria Road. Prior to this, his bail plea was declined by the Court of learned Special Judge (Competent Court) Naushahro Feroze vide order dated 25-08-2025.

2. Concisely, facts of the prosecution of case are that on 22-07-2025 complainant ASI Muhammad Saffar Rajper lodged the FIR alleging therein that on the day of occurrence he along with his subordinate staff left Police Station vide entry No. 18 at 1730 hours for patrolling. While patrol, when they reached near village Danse leading to Gate where saw two persons, who on seeing the police party tried to escape, but they were apprehended at 10/12 paces. On inquiry first person disclosed his identity as Imran Ali and during his personals search, one black small polythene bag recovered from left side of his pocket containing one slab of 800 grams chars. On enquiry other person disclosed his name as Mushtaque Ahmed and from his body search, one black small polythene bag containing one slab of 600 grams chars was secured. 100 grams charas was separated

from each slab, such memo of arrest and recovery was prepared at the spot. Consequent upon, case was registered inter-alia on above facts.

3. Learned counsel contends that the applicant is innocent and has falsely been implicated in this case by the police; that no independent civilian mashirs were associated at the time of seizure in violation of Section 103 Cr.P.C.; and that the minimum prescribed sentence of nine years does not engage the prohibitory clause of Section 497(1)Cr.P.C., making bail a rule rather than an exception. He relies on case laws cited at 2024 SCMR 934, 2025 SCMR 721 & unreported order in Constitutional Petition No.D-729 of 2025.

4. Learned Deputy P.G. records objection to bail and urges that the offence is serious, non-bailable by statute, and that large quantity of charas mandates deterrence.

5. I have heard learned counsel and perused record. Admittedly 800 grams charas allegedly recovered from the applicant. Under the Sindh CNS Act, 2024, the punishment for the alleged offence “may extend to fourteen years, but shall not be less than nine years.” The minimum punishment of nine years falls below the ten-year threshold of Section 497(1) Cr.P.C. and thus does not attract the prohibitory clause. It is settled principle of law that where the minimum prescribed sentence is below ten years, the grant of bail is the rule, and its refusal the exception.

6. The seizure was effected at a busy public place without any private mashirs, in violation of Section 103 Cr.P.C., undermining the credibility of the prosecution’s case. In case of *Muhammad Abid Hussain Vs The State* reported in (2025 SCMR 721), procedural irregularities in narcotics

recoveries were held to create substantial doubt, justifying bail even at the initial stage. Moreover, in case of *Zahid Sarfaraz Gill Vs The State* reported in (2024 SCMR 934), the Supreme Court affirmed that where a case hinges solely on police testimony and procedural lapses like non-production of video recording, the benefit of doubt must go to the accused at bail stage.

7. In view of the minimum punishment below ten years, the applicant has made out a strong prima facie case for bail. The learned trial court is capable of safeguarding the interests of justice through appropriate conditions without depriving the applicant of his fundamental right to liberty. Consequently, instant application is allowed and the applicant named above is admitted to bail, subject to furnishing solvent surety in sum of Rs.100,000/- (One Lac) along with P.R Bond of like amount to the satisfaction of the learned trial court. The above assessments are tentative in nature and shall not affect the merits of trial.

J U D G E