

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

Cr. Bail Appln. No. S-666 2026

Applicant : Izhar Alias Ahmed son of Muhammad Bux
Through Mr. Pardeep Kumar, Advocate

The State : *Through* Mr. Siraj Ahmed Bijarani, D.P.G.

Date of Hearing : 18.06.2026

Date of Decision : 18.06.2026

ORDER

TASNEEM SULTANA, J.— Applicant Izhar alias Ahmed seeks post-arrest bail in Crime No.119 of 2026, registered at Police Station A-Section Dadu, for offences under Articles 3 and 4 of the Prohibition (Enforcement of Hadd) Order, 1979. Earlier, his bail plea was declined by the learned Sessions Judge, Dadu, vide order dated 21.05.2026.

2. Brief facts of the prosecution case are that on 12.04.2026 at about 1230 hours, complainant ASI Wajid Ali Kalhoro of P.S. A-Section Dadu, along with subordinate police staff, was on routine patrolling when the applicant was allegedly apprehended. Upon his search, three gallons containing 90 litres of liquor/kacha wine were allegedly recovered from his possession. The arrest and recovery proceedings were reduced into mashirnama at the spot, whereafter the FIR was registered against him.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that the alleged recovery was made in violation of Section 103, Cr.P.C.; that Article 4 of the Prohibition (Enforcement of Hadd) Order, 1979 is bailable; that punishment under Article 3 thereof is up to five years, therefore, the offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; that no exceptional ground exists for further detention of the applicant; therefore, he is entitled to bail.

4. Conversely, learned D.P.G. opposed the application and submitted that 90 litres of liquor/kacha wine was recovered from the possession of the applicant; that the offence is against society; therefore, the applicant is not entitled to bail.

5. Heard learned counsel for the applicant, learned D.P.G. and perused the material available on record.

6. The allegation against the applicant is that he was apprehended by the police during patrolling and, upon search, three gallons containing 90 litres of liquor/kacha wine were allegedly recovered from his possession.

7. Admittedly, Article 4 of the Prohibition (Enforcement of Hadd) Order, 1979 is bailable, whereas the punishment provided under Article 3 thereof is up to five years; therefore, the offence does not fall within the prohibitory clause of Section 497, Cr.P.C. It is settled by now that in cases falling outside the prohibitory clause, grant of bail is a rule and refusal is an exception. Reference may be made to *Tariq Bashir v. The State* (PLD 1995 SC 34), *Muhammad Tanveer v. The State* (PLD 2017 SC 733), *Sheikh Abdul Raheem v. The State* (2021 SCMR 822) and *Muhammad Daniyal Farrukh Ansari v. The State* (2021 SCMR 557).

8. The Honourable Supreme Court in *Muhammad Imran v. The State* (CrI.P.860-L/2021), decided on 05.08.2021, has categorized the circumstances which may justify refusal of bail in non-prohibitory cases, such as likelihood of abscondence, tampering with prosecution evidence, influencing prosecution witnesses, or repeating the offence keeping in view previous criminal record or desperate manner of commission. In the present case, learned D.P.G. has not been able to point out any such circumstance against the applicant.

9. The applicant is in custody, and the alleged recovery has already been effected; therefore, no further recovery or investigation from him has been shown to be necessary. So far as the quantity of liquor/kacha wine allegedly recovered from him is concerned, the same may be relevant for trial, but by itself it does not bring the case within the prohibitory clause, nor does it constitute an exceptional ground for refusal of bail. Reference may also be made to *Hussainuddin and another v. The State* (PLD 1998 Karachi 187), wherein bail was granted in a case involving recovery of hemp/bhang.

10. The plea regarding non-association of private mashirs in the recovery proceedings, particularly when the alleged recovery was effected from a place accessible to public, is a matter which requires examination at trial. At this tentative stage, such aspect cannot be conclusively determined against either side.

11. It is settled principle of law that deeper appreciation of evidence is not permissible while deciding bail and bail cannot be withheld as punishment. In view of the non-prohibitory nature of the offence, the recovery already having been effected, and absence of any exceptional circumstance for refusal of bail, the applicant has made out a case for grant of post-arrest bail.

12. In view of the above facts and circumstances, the instant bail application was allowed and the applicant Izhar alias Ahmed was admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.50,000/- and P.R. bond in the like amount to the satisfaction of the learned trial Court, vide short order dated 18.06.2026. These are the reasons for my short order.

13. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

J U D G E

Ahmed/Pa,