

Order Sheet
HIGH COURT OF SINDH,
CIRCUIT COURT, MIRPURKHAS

CP No. D- 385 of 2025
[Muhammad Siddique v. The State]

Before :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Yousuf Ali Sayeed

Petitioner : Through Mr. Shahnawaz Laghari, Advocate
The State : Mr. Ayaz Ali Rajpar, Assistant A.G. Sindh &
Mr. Ghulam Abbas Dalwani, D.P.G.
Date of Hearing & Decision : 02.07.2025

ORDER

ADNAN-UL-KARIM MEMON, J.- Petitioner Muhammad Siddique faces charges in Crime No. 42 of 2025 registered at Jhudo Police Station under Section 9(i)(a) of the SCNS Act, 2024, being accused of selling 100 grams of charas. He is currently in judicial custody following his arrest. Per Section 35 of the Sindh Control of Narcotic Substances Act, 2024 the Sessions Court cannot hear Bail Applications; therefore, the Petitioner having no other legal remedy has approached this court under Article 199 of the Constitution of Pakistan, 1973 pursuant to the Order dated 22.04.2025, passed in CP No.D- 937 of 2025 (*Syed Sahir Hasan v. Province of Sindh & Others*).

2. Learned counsel for the petitioner argued that the petitioner is innocent and has falsely been implicated in this case due to *mala fide* intentions, with no independent evidence to support the allegations; that the prosecution's narrative of openly selling contraband is highly improbable and concocted, raising serious doubts about its veracity. Furthermore, the absence of independent or public witnesses (mashirs) during the alleged recovery, with only subordinate official witnesses present, casts significant doubt on its authenticity. Counsel highlighted that the FIR itself confirms that nothing was recovered from the petitioner's person, and the lack of a purchaser or private witness necessitates further inquiry. The 1.5-hour delay in registration of FIR without explanation suggests prior consultation. He also argued that the alleged recoveries violate Section 103

Cr.P.C due to the absence of impartial witnesses, undermining the prosecution's credibility. Learned counsel submitted that petitioner's continuous detention is an abuse of legal process, driven by extraneous motives and political victimization, violating fundamental rights under Articles 4, 9, and 10-A of the Constitution. For alleged recovery and arrest, he stated, failed to meet the mandatory requirements of the Control of Narcotic Substances Act, 1997, rendering the prosecution's case weak. Finally, counsel emphasized that the petitioner has deep roots in society, is an activist, and undertakes not to tamper with evidence or influence witnesses, being no longer required for investigation. He concluded that the case warrants further inquiry under Section 497(2) Cr.P.C., as the substance was allegedly foisted upon the petitioner, and therefore, bail should be granted in the interest of justice.

3. Learned APG has not objected to the grant of bail to the petitioner.

4. Heard learned counsel for the parties and perused the record with their assistance.

5. The core defence of petitioner rests on several critical points: the improbable nature of prosecution's story, the absence of independent witnesses during the alleged recovery, and the fact that no contraband was found on the petitioner's person. Adding to these concerns and violation of Section 103 Cr.P.C, *prima facie* undermine the prosecution's credibility. Keeping in view the meager quantity of narcotics recovered, which carries a sentence of less than five years, and the prosecution's failure to record video of the recovery as mandated by the Act 2024, this Constitutional Petition for bail has force. These are the reasons for our short order of even date, by which the Petition for bail was allowed and the Petitioner was granted post-arrest bail in Crime No. 42 of 2025 registered at Police Station Jhudo, subject to his furnishing solvent surety in the sum of Rs. 5,0000/- [Fifty Thousand only] and P.R Bond in the like amount to the satisfaction of Trial Court.

6. The observations made hereinabove are tentative and ought not to influence the case or the trial.

Disposed of.

JUDGE

JUDGE