

ORDER SHEET

**HIGH COURT OF SINDH CIRCUIT COURT,  
MIRPURKHAS**

**CP. No. D- 450 of 2025**

[ Dayaram Das alias Deyalo v. Province of Sindh & others]

**BEFORE:**

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Yousuf Ali Sayeed

Petitioner : Through Mr Jamshed Lucas, Advocate

Respondent : Through Mr. Ayaz Ali Rajpar, Addl. A.G. &  
Mr. Dhani Bux Mari A.P.G

Date of hearing  
& Decision: 09.07.2025

**ORDER**

**ADNAN-UL-KARIM MEMON J.** - Petitioner prays for post-arrest bail in Crime No. 05 of 2025 registered at Police Station DIO (E&T) Mirpurkhas under Section 9(i)3(a) CNSA 2024.

2. Learned counsel argued the petitioner is innocent and the instant case has been registered against him due to political victimization; that the FIR's account of the petitioner openly possessing and selling 55 grams of Charas on public road is highly improbable and concocted; that the FIR admits no independent or public witnesses (mashirs) were present at the time of alleged recovery which is a clear violation of Section 103 Cr.P.C. and Sections 21 and 22 of the Narcotics Act undermining the authenticity and credibility of the recovery; that the FIR is delayed by an hour and 25 minutes without any plausible explanation, suggesting collaboration and consultation; that the petitioner is in custody since his arrest and his continuous detention is an abuse of the process of law and violates his fundamental rights under Articles 4, 9, and 10-A of the Constitution; that the role assigned to the petitioner in the FIR is untrustworthy, and the facts suggest the case is one for further inquiry as contemplated under Section 497(2) Cr.P.C.; that granting bail is the rule, and its refusal is an exception, especially when the offense does not fall within the prohibitory clause; that the petitioner was remanded to judicial custody and is currently in jail, no longer required for further investigation; that this Court vide order dated April 22, 2025, in C.P. No. D-937 of 2025 ruled that the Sessions Court lacks jurisdiction under Section 35 of the Sindh Control of Narcotic Substances Act, 2024, hence this constitutional petition.

3. Learned A.P.G has objected to the grant of bail to the petitioner on the ground that he was arrested at the spot and Charas was recovered from his possession; that the petitioner has failed to show any enmity and / or malafide on the part of police. Learned Additional A.G. adopted the arguments of learned A.P.G. However, they both conceded that the petitioner has no previous criminal record.

4. Heard learned counsel for the parties and perused the record with their assistance and the case law cited at the bar.

5. We have noticed that the case of Ateebur Rehman v. The State (2016 SCMR 1424), which involved recovery of 1014 grams of heroin, and Aya Khan and another v. The State (2020 SCMR 350), which involved recovery of 1100 grams of heroin, and bail was granted by the Supreme Court. In principle, bail does not mean acquittal of the accused but only a change of custody from police to the sureties, who, on furnishing bonds, take responsibility to produce the accused whenever and wherever required to be produced. On the proposition above, we are fortified with the decision of Supreme Court in the case of Haji Muhammad Nazir v. The State (2008 SCMR 807).

6. Keeping in view the meager quantity of narcotics recovered, which carries a sentence of less than five years, and the admission that the petitioner has no prior criminal record, this Constitutional Petition for bail has force.

7. 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. 05 of 2025 registered at Police Station DIO (E&T) Mirpurkhas under Section 9(i)3(a) CNSA 2024 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 trial Court.

8. The observation recorded hereinabove is tentative and shall not prejudice the case of either party at trial. However, the trial Court shall endeavor to examine the Complainant / his witnesses positively within a reasonable time. If the charge has not been framed, the same shall be framed before the date so fixed by the trial Court, and a compliance report shall be submitted through the Additional Registrar of this Court. The Additional Registrar shall ensure compliance with the order.

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