

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

## Constitution Petition No.D-1108 of 2025

**Before:**

***Mr. Justice Yousuf Ali Sayeed;***

***Mr. Justice Abdul Hamid Bhurgri.***

Petitioner : Pir Aijaz son of Pir Khayali through Mr. Manzoor Ali Jessar, advocate.

Respondents : Through Mr. Khalid Hussain Lakho, Deputy Prosecutor General, Sindh.

Date of Hearing : 17.07.2025

Date of Order : 17.07.2025

## **ORDER**

**Abdul Hamid Bhurgri, J** : - This petition under Article 199 of the Constitution has been filed by the petitioner seeking post-arrest bail, in view of the bar contained in Section 35(1) of the Sindh Control of Narcotic Substances Act, 2024. The petitioner places reliance on the judgment dated 22.04.2025, rendered by a three-member bench of this Court in Constitutional Petition No. D-937 of 2025. The petitioner has been nominated in FIR No. 31 of 2025, registered on 14.05.2025 at Police Station Rukkan, District Dadu, wherein he is shown to have been selling 1350 gram of Charas along with co-accused Pir Sajjad.

2. As per the narration in the FIR, on 14.05.2025 at 1900 hours, the complainant, accompanied by his subordinate staff, set out on routine patrol pursuant to Entry No. 20. While conducting snap checking at Piyaro Station on Sita Road near Tika Mor, two individuals on a motorcycle, travelling from Piyaro Station towards Sita, were observed. Upon illumination with torchlight, the riders were identified as Pir Aijaz and Pir Sajjad. On sighting the police party, the motorcyclists attempted to flee. One of them, namely Pir Sajjad, seated at the rear, was apprehended along with a shopping bag, while the other, Pir Aijaz, managed to escape on the motorcycle. Upon inspection of the recovered bag, it was found to contain one large and three smaller pieces of charas, cumulatively weighing 1350 grams. A body search further revealed two currency notes of Rs.100/- each. The accused allegedly confessed that they were en route to sell the contraband. One 100-gram portion was

sealed for chemical analysis, while the remaining 1250 grams was sealed separately. Following the preparation of the requisite memo, both the accused and the recovered property were brought to the police station, where the instant FIR was lodged.

3. Learned counsel for the petitioner has strenuously contended that the FIR is false and has been lodged with mala fide intent. It is submitted that no contraband material was recovered from the exclusive possession of the petitioner, nor was he apprehended at the scene of occurrence. The petitioner is alleged to have been falsely implicated due to political rivalry, having actively participated in a recent protest concerning irrigation rights over six canals. It is further argued that the alleged incident occurred in a densely populated area, yet no effort was made to associate any independent witnesses. The petitioner, a man of respectable standing with no prior criminal record, seeks relief under Section 497 Cr.P.C.

4. Conversely, the learned Deputy Prosecutor General has opposed the grant of bail, submitting that the petitioner is named in the FIR, and that no evidence has been produced to establish any animosity or mala fide intent on the part of the police, thereby negating any basis for false implication. Accordingly, the learned Law Officer has prayed for dismissal of the petition.

5. We have heard learned counsel for the petitioner and the learned Deputy Prosecutor General Sindh and have examined the material placed before us with due diligence.

6. Notably, no contraband was recovered from the exclusive possession of the petitioner, nor was he apprehended at the place of occurrence. These factors, when read conjunctively, render the case one of further inquiry. Moreover, although the alleged recovery was made in a heavily populated area, the investigating officer failed to associate any neutral or independent witness. It is a well-entrenched principle of law that where the prosecution's case is founded solely upon official testimony and lacks corroboration by impartial witnesses, the benefit of such doubt must be extended, even at the bail stage. In this regard, reliance is placed upon *Muhammad Arshad v. The State* (2022 SCMR 1555). Furthermore, the petitioner has no prior criminal antecedents and cannot be treated as a habitual offender.

7. Prima facie, the present case requires deeper judicial scrutiny. Although official witnesses are, in law, to be treated at par with other

witnesses, their credibility and the veracity of their testimony remain matters to be tested at trial.

8. Thus in view of the above, the petition was allowed by a short order dated 17.07.2025, whereby the petitioner/accused was admitted to post-arrest bail upon furnishing a solvent surety in the sum of Rs.50,000/- and a personal bond in the like amount to the satisfaction of the learned trial Court.

9. It is clarified that the observations made hereinabove are of a tentative nature and shall not prejudice the learned trial Court at the stage of final adjudication. It is directed that the petitioner shall remain present on each and every date of hearing before the trial Court. In the event of non-compliance, the trial Court shall be at liberty to cancel the bail granted to the petitioner.

**J U D G E**

**J U D G E**

Irfan Ali