

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Constitution Petition No.D-775 of 2025

Before:

Mr. Justice Yousuf Ali Sayeed;

Mr. Justice Abdul Hamid Bhurgri.

Petitioner : Sohail son of Ghulam Murtaza Jatoi,
through Mr. Farhad Ali Abro, Advocate.

Respondents : The State and another,
through Mr. Siraj Ahmed Bijarani,
Assistant Prosecutor General Sindh.
Mr. Muhammad Ismail Bhutto, Additional
Advocate General Sindh,

Date of Hearing: 28.07.2025.

Date of Order. 28.07.2025.

ORDER

Abdul Hamid Bhurgri, J,- The petitioner being an accused seeks his post arrest bail by filing instant petition in view of the embargo contained in Section 35(1) of the Sindh Control of Narcotic Substances Act, 2024. Reference is made to the judgment dated 22.04.2025, passed by a three-member bench of this Court in Constitutional Petition No. D-937 of 2025. The petitioner is accused in FIR No. 70 of 2025, lodged at Police Station Pinyari, District Hyderabad.

2. As per the FIR, on 06.05.2025 at 0930 hours, vide Entry No. 11, the complainant ASI Muhammad Younus, accompanied by his staff, departed from the police station for patrolling in a government vehicle. While visiting various areas, they reached the vicinity of Channel Canal, village Adho Khan Jatoi, where they observed an individual approaching on foot with a plastic shopper. Upon seeing the police party, the individual attempted to flee but was apprehended at 1000 hours, and the shopper in his possession was secured. The apprehended person disclosed his name as Sohail. The shopper recovered from him was found to contain two slabs and a small piece of charas, which collectively weighed 1050 grams. Upon a search of his person, a currency note of Rs. 100/- was recovered. It is further alleged that the seized property was properly sealed, and after preparing the relevant documentation, both the accused and the recovered material were taken to the police station, where the present FIR was lodged.

3. Learned counsel for the petitioner argued that the FIR is false and has been registered with malafide intent. It was submitted that no

contraband was recovered from the petitioner's possession, nor was he apprehended at the alleged place of occurrence. Instead, it was contended that the petitioner has been falsely implicated due to political victimization. The counsel further submitted that the police did not associate any independent witnesses despite the locality being densely populated. The petitioner, it was stated, hails from a respectable family and has no prior criminal record; hence, he seeks the concession of bail.

4. Conversely, the learned Assistant Prosecutor General opposed the grant of post-arrest bail, submitting that the petitioner is specifically nominated in the FIR and that a substantial quantity of contraband was recovered from him. Therefore, it was argued that he is not entitled to bail at this stage.

5. We have heard the learned counsel for the petitioner and the learned Assistant Prosecutor General, Sindh, and have carefully examined the record made available before us.

6. The offence alleged against the petitioner is punishable with imprisonment extending up to fourteen years, but not less than nine years. It is, however, a settled principle of law that, at the bail stage, the lesser sentence is to be considered.

7. It is further alleged that the recovery took place in a densely populated area and that the police were acting upon prior intelligence regarding the petitioner's possession of contraband. However, no neutral or independent witness was cited at the time of the alleged recovery. It is a well-recognized principle of criminal law that when the prosecution's case rests solely upon official testimony, unsupported by corroboration from impartial and disinterested witnesses, the benefit of doubt must necessarily be extended to the accused. In this regard, reliance is placed on the precedent laid down in ***Muhammad Arshad v. The State (2022 SCMR 1555)***. Furthermore, the petitioner has no prior criminal antecedents and cannot be classified as a habitual offender.

8. Prima facie, the allegations against the petitioner require further inquiry. While the testimony of official witnesses may be accorded equal evidentiary weight as that of private witnesses, the truthfulness of such statements must nonetheless be evaluated during trial.

9. In view of the foregoing considerations, the petition was allowed vide short order dated 28.07.2025. The petitioner/accused was admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs. 1,00,000/-, along with an equivalent P.R. bond to the satisfaction of the learned trial Court.

10. It is clarified that the observations made hereinabove are merely tentative in nature and shall not prejudice the learned trial Court in adjudicating the case on its merits. The petitioner shall ensure his punctual appearance on each and every date of hearing, failing which the trial Court shall be at liberty to recall the concession of bail.

Judge

Judge