

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Constitution Petition No.D-1102 of 2025

Before:

Mr. Justice Yousuf Ali Sayeed;

Mr. Justice Abdul Hamid Bhurgri.

Petitioner : Zahid Hussain son of Lal Bux Brohi,
through Mr. Jameel Ahmed Memon,
Advocate.

Respondents : P.O Sindh and 4 others,
through Mr. Khalid Hussain Lakho,
Deputy Prosecutor General Sindh.
Mr. Muhammad Ismail Bhutto, Additional
Advocate General Sindh,

Date of Hearing: 24.07.2025.

Date of Order. 24.07.2025.

ORDER

Abdul Hamid Bhurgri, J.- Petitioner Zahid Hussain being an accused of alleged recovery of contraband material has filed instant petition and has prayed for grant of post arrest bail 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. He is an accused in FIR No. 24 of 2025, lodged at Police Station Daur, District Nawabshah.

2. According to the prosecution, on 01.03.2025 at 1300 hours, vide Entry No.6, the complainant, accompanied by his staff, embarked on routine patrolling duty from the police station. While traversing the link road bridge over Sim Nala on route to 54 Mori, the police party observed an individual carrying a green plastic bag. Upon noticing the police, the suspect attempted to flee but was swiftly apprehended. During questioning, he disclosed his identity as Zahid Hussain. The recovered bag was found to contain two slabs of charas, weighing 590 grams. A subsequent personal search of the accused yielded a currency note of Rs.100/- and two additional notes of Rs.10/- each, totaling Rs.120/-. The property was sealed on-site, and after preparing the necessary arrest and recovery documentation, the accused and the seized contraband were brought to the police station, where the instant FIR was lodged.

3. Learned counsel for the petitioner contended that no narcotics were discovered in the petitioner's possession and that he has been maliciously implicated at the behest of a local landlord due to personal enmity. He argued that the contraband was falsely planted upon the petitioner to harass and defame him. It was further asserted that despite the area being thickly populated, no neutral or independent witness was associated at the time of alleged recovery. The petitioner, it was urged, hails from a respectable background and has no prior criminal antecedents, thus meriting the concession of bail.

4. In contrast, the learned Deputy Prosecutor General opposed the grant of bail by maintaining that the FIR specifically implicates the petitioner and attributes direct recovery of the contraband to him. He further asserted that defence counsel had failed to establish any plausible motive for the police to falsely frame the petitioner or demonstrate any enmity between the parties. Accordingly, he prayed for dismissal of the bail plea.

5. We have heard the submissions advanced by learned counsel for both sides and have meticulously examined the record.

6. The offence alleged entails a sentence ranging from a minimum of five years to a maximum of nine years. In light of the settled principle that, at the bail stage, the lesser sentence must be considered, the offence does not fall within the prohibitory clause. Thus, bail becomes the rule and refusal the exception.

7. The alleged incident is said to have occurred in a densely inhabited locality, yet the prosecution failed to associate any neutral or independent witness. Jurisprudential standards dictate that when a case hinges solely upon police testimony, uncorroborated by disinterested witnesses, the benefit of doubt ought to be extended to the accused. Reliance is placed upon ***Muhammad Arshad v. The State (2022 SCMR 1555)***. Additionally, the petitioner lacks previous criminal history and cannot be categorized as a habitual offender.

8. Prima facie, the allegations require deeper scrutiny. Though official witnesses may carry evidentiary value akin to private witnesses, the veracity of their statements must be tested at trial.

9. In light of the foregoing, the petition was allowed via short order dated 24.07.2025. The petitioner was admitted to post-arrest bail on furnishing solvent surety in the sum of Rs.50,000/- with an equivalent P.R. bond to the satisfaction of the learned trial Court.

10. It is clarified that the above observations are tentative and shall not prejudice the trial Court in determining the case on its merits. The petitioner is directed to ensure punctual attendance at all future hearings, failing which the trial Court shall be at liberty to recall the concession of bail.

Judge

Judge