

HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 699 of 2025

(*Qutub Din Lakhan v. The State & others*)

Present:

Mr. Arbab Ali Hakro, J.

Mr. Abdul Hamid Bhurgri, J.

Date of hearing : **03.06.2025**

Date of decision : **03.06.2025**

Mr. Saeed Ahmed Chachar, Advocate for petitioner.

Mr. Aftab Ahmed Shar, Additional Prosecutor General.

ORDER

Arbab Ali Hakro, J. – Petitioner Qutub Din son of Allah Warayo Lakhan has approached this Court through the instant Constitution Petition, seeking post-arrest bail in Crime No.66 of 2025, registered at Police Station Daharki, District Ghotki, for an offence under Section 9(1), Serial No.3(a) of the Sindh Control of Narcotic Substances Act, 2024 (“**Act of 2024**”).

2. The FIR reflects that on 01.05.2025 at 1800 hours, a police party headed by ASI Muhammad Ayoob Laghari apprehended the petitioner near Kundi Waro Graveyard. It is alleged that the petitioner attempted to flee upon seeing the police, and was thereafter arrested. A white shopping bag in his possession was searched, allegedly containing 300 grams of charas. Of the total, 150 grams were separated for sampling, and the remaining was also sealed. Due to the absence of any private witnesses, two police officials, PC Abid Ali and PC Ghulam Rasool, were appointed as *mashirs*.

3. Learned counsel for the petitioner submitted that the petitioner is a qualified scaffolder with long-standing experience in industrial and overseas projects. It is asserted that his professional refusal to recommend certain candidates backed by influential persons triggered this malicious prosecution. It was further contended that the arrest was orchestrated through a raid on his residence at about 04:00 a.m., where the petitioner was forcibly taken and later implicated in a concocted recovery.

4. The defence strongly questioned the credibility of the recovery process. Firstly, it was carried out solely by police officials without the presence of any private *mashir*, despite the alleged recovery taking place in a populated area with a mosque and graveyard. Secondly, no video or photographic documentation of the recovery exists. Thirdly, the recovery and subsequent registration of FIR were undertaken by an ASI, which raises questions regarding compliance with the statutory mandate, since officers below the rank of Sub-Inspector are not authorized under the Act of 2024 to conduct such operations.

5. Learned Additional Prosecutor General opposed the petition, contending that the quantity of charas recovered and the prompt action by police establishes *prima facie* involvement of the petitioner.

6. Heard the learned counsel for the petitioner as well as the learned Additional Prosecutor General, and perused the record.

7. From the material available on record, several inconsistencies and legal deficiencies are evident. The lack of independent witnesses, procedural lapses, doubtful nature of recovery, and the questionable authority of the arresting officer collectively lead to the conclusion that the case against the petitioner is not free from doubt and certainly calls for further inquiry. Moreover, the Act of 2024, despite its ouster clause under Section 35(1), does not preclude the High Court's constitutional jurisdiction under Article 199 where fundamental rights, particularly liberty and fair trial under Articles 9 and 10-A, are implicated. In this regard, the Supreme Court's judgments in cases of **Khan Asfandiyar Wali**¹ and **Muhammad Abid Hussain**² provide authoritative guidance.

8. Additionally, the alleged quantity of charas recovered (300 grams) falls within a non-prohibitory category and is not such that bail may automatically be withheld without scrutiny. It is a settled principle of law that in such cases, bail is to be granted unless there exist strong and exceptional reasons to deny it.

9. Accordingly, this petition is **allowed**. Petitioner Qutub Din son of Allah Warayo Lakhan is admitted to post-arrest bail in Crime No.66 of 2025, registered at Police Station Daharki, District Ghotki, under Section 9(1), Serial No.3(a) of the

¹ Khan Asfandiyar Wali v. Federation of Pakistan (PLD 2001 SC 607)

² Muhammad Abid Hussain v. The State (2025 SCMR 721)

Sindh Control of Narcotic Substances Act, 2024, subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees one lac only) and a P.R. bond in the like amount to the satisfaction of the trial Court.

10. Needless to emphasize, the observations made herein are tentative and shall not influence the trial Court in any manner at the stage of final adjudication.

Above are the reasons of our short order dated 03.06.2025.

J U D G E

J U D G E

Abdul Basit