

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-427 of 2026
(Bashir versus The State)

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For hearing of main case

11.05.2026

Mr. Naveed Raza Nizamani along with Mr. Mustansar Ali, Advocate for applicant
Ms. Sana Memon, Assistant Prosecutor General.

Crime No.06 of 2026
P.S. Excise Crime & Narcotics Hyd.
U/S 3/4 P.E.H.O., 1979

ORDER

Adnan Iqbal Chaudhry, J. – Applicant, Bashir s/o Kirar, a Hindu by faith, prays for post-arrest bail in aforesaid crime after the same has been denied by the Additional Sessions Judge, Hyderabad by order dated 02.04.2026.

2. Heard learned counsel and perused the record.
3. Applicant has been booked for acts of selling intoxicants and keeping intoxicants in his custody, which are offences under Articles 3(1)(c) and 4 respectively of the Prohibition (Enforcement of Hadd) Order, 1979 [**1979 Order**]. It is alleged that the Applicant was apprehended on 15.03.2026 at Gulshan-e-Mehran, Qasimabad at 12:30 hours when he seen selling liquor outside a house; that a search of shopping bags held by him revealed 24 pints of Dry Gin; thereafter, the Applicant led the police party to a nearby warehouse belonging to one Raj Kumar at Gul Latif, Qasimabad, where the police party arrested the co-accused Kirshan at 13:30 hours and recovered a substantial quantity of alcohol stored at said warehouse.
4. It transpires that even though the Applicant was apprehended at 12:30 hours, his memo of arrest was prepared at 14:00 hours along with that of the co-accused Kirshan. So also, there is no separate memo of recovery in respect of alcohol allegedly found in the Applicant's possession when he was apprehended. Instead, a joint memo of recovery was prepared for the alcohol recovered from both accused persons. *Vis-à-*

vis the offence alleged under Articles 3(1)(c) of the 1979 Order, i.e. of selling an intoxicant/alcohol, only a paltry sum of Rs.800/- was recovered from the Applicant. These facts lend support to the Applicant's version that he was arrested elsewhere and alcohol was foisted on him with *malafides*, thus a case of further inquiry falling within the ambit of sub-section (2) of section 497 Cr.P.C.

5. The imprisonment prescribed for the offence under Article 3 of the 1979 Order does not exceed five years, whereas, the imprisonment prescribed for the offence under Article 4 of said Order does not exceed two years. Therefore, offences alleged against the Applicant do not fall within the prohibitory clause of section 497 Cr.P.C. His custody is no longer required for investigation, thus keeping him behind bars at this stage serves no purpose.

6. In view of the foregoing, the Applicant Bashir s/o Kirar is granted post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that observations herein are tentative, and shall not be construed to prejudice the case of either side at trial.

JUDGE

Ali Haider