

## HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

### **Crl. Bail Application No.S-226 of 2026** *(Muhammad Hayat vs. The State)*

**Applicant by** : Mr. Shoukat Ali Rahimoon, Advocate.

**Respondent by** : Mr. Neel Parkash, D.P.G.

**Date of hearing** : 25.05.2026

**Date of Order** : 25.05.2026

## **ORDER**

**ARBAB ALI HAKRO, J.**: The applicant, Muhammad Hayat s/o Jarkas, seeks his release on post-arrest bail under Section 497 Cr.P.C. in Crime No.59 of 2026, registered at Police Station Umerkot City, for offences under Articles 3 / 4 P.E.H.O, 1979. His earlier bail plea (Criminal Bail Application No. 327/ 2026) was declined by the learned Sessions Judge, Umerkot, vide order dated 05-05-2026, after which he invoked the jurisdiction of this Court.

2. The prosecution case, as set out in the FIR, is that on 30-03-2026 at 1100 hours, a police party headed by ASI Zahid Iqbal, while conducting checks, stopped a Corolla car on the Kharo bypass, Umerkot-Mirpurkhas road, apprehended the applicant and co-accused Mohan alias Aloo s/o Teekam Meghwar, and recovered five sacks containing bottles of contraband liquor/Pakistani whisky wine, which the accused were transporting. The FIR was thereafter lodged.

3. Learned counsel for the applicant contended that nothing was recovered from the applicant's physical possession, nor was the applicant available at the spot; that the alleged offence does not fall within the ambit of the prohibitory clause of section 497(1) Cr.P.C; that there is a violation of section 103 of the Cr.P.C, as the complainant failed to associate any private person in the arrest and recovery proceedings, though the alleged place of incident was situated on a busy road; that the case has been challaned and the applicant is no longer required for further investigation.

Lastly, he prayed for the grant of bail to the applicant. In support of his contentions, he relied upon case law, i.e., 2007 M L D 79, 2007 P Cr. L J 777, 2008 Y L R 1717, 2019 Y L R Note 105, 2024 S C M R 934 and 2025 M L D 730.

4. Conversely, learned Deputy Prosecutor General opposed the bail application, submitting that the applicant is nominated in the FIR with a specific role of transporting contraband liquor/wine in their car; that the chemical report is positive, hence he prayed for dismissal of the bail application.

5. I have heard learned counsel for the parties and examined the available material. The record shows that, although the alleged incident occurred in broad daylight on a busy road, the complainant did not associate any private person as a mashir, and both mashirs are police officials. Their testimony, therefore, will require scrutiny at trial. Moreover, no video recording has been prepared to establish the facts of the incident, the arrest, and the recovery proceedings.

6. It is also noted that the entire prosecution case rests on the evidence of police officials. In such circumstances, the possibility of the applicant tampering with the prosecution evidence does not arise. Although the evidence of police officials is legally admissible, when the entire case hinges exclusively on such testimony, its reliability must be scrutinised in detail at trial to determine whether the incident occurred as alleged.

7. Admittedly, Article 4 of P.E.H.O, 1979, is punishable with up to two years' imprisonment and is bailable, whereas the punishment provided under Article 3 of P.E.H.O, 1979, is up to five years; as such, it does not fall within the prohibitory clause of Section 497 Cr.P.C. The Honourable Supreme Court, in numerous judgments, has held that bail in cases which do not fall within the prohibitory clause of Section 497 is the right, and its refusal is the exception. Reliance is placed on the cases of Tariq Bashir v.

The State (PLD 1995 SC 34), Muhammad Tanveer v. The State and another (PLD 2017 SC 733), Sheikh Abdul Raheem v. The State and another (2021 SCMR 822), and Muhammad Daniyal Farrukh Ansari v. The State (2021 SCMR 557).

8. According to the prosecution case, the applicant and co-accused were transporting the allegedly recovered contraband liquor in a car. The verification report issued by the Excise, Taxation and Narcotics Inspector, District Umerkot, shows that one Irfan Ali is the owner of the said car; however, the I.O has not recorded the statement of the said owner under section 161 of the Cr.P.C during the course of the investigation.

9. The record shows that the applicant has no prior criminal record, and the investigation is complete, with the challan already submitted. At the bail stage, a deeper appreciation of the evidence is not warranted. Prima facie, the case against the applicant calls for further inquiry under Section 497(2) Cr.P.C.

10. In view of the above circumstances, this bail application is allowed, and applicant Muhammad Hayat s/o Jarkas is admitted to post-arrest bail, subject to furnishing a solvent surety in the sum of Rs. 100,000/= (Rupees One Hundred Thousand only) and a P.R.Bond in the like amount, to the satisfaction of the learned trial court.

11. The observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

**JUDGE**

\*Saleem\*