

**HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Before:

Justice Jawad Akbar Sarwana

Cr. Bail Application No.S-838 of 2026.

[Sikandar Ali & another Vs. The State]

Applicants : (i) Sikandar Ali s/o Lakha Dino.
(ii) Ghulam Rasool s/o Amb Khaskheli
Through M/s Farhad Ali Abro and Shoukat Ali Kaka
advocates

Respondent : The State **through** Mr. Siraj Ahmed Bijarani,
Assistant Prosecutor General Sindh

Date of Hearing : 05.08.2026.

Date of Decision : 21.08.2026

ORDER

JAWAD AKBAR SARWANA, J :- The Applicants/accused (i) Sikandar Ali s/o Lakha Dino (ii) Ghulam Rasool s/o Amb Khaskheli seek post-arrest bail in Crime No.55 of 2026, registered under Section 3 and 4 of The Prohibition (Enforcement of Hadd) Ordinance, 1979 at P.S Bhit Shah, District Matiari after their post-arrest bail was denied vide order dated 22.05.2026 passed by the Additional Sessions Judge, Hala in Criminal Bail Application No.328 of 2026.

2. The background of the matter as set out in the FIR for the sake of brevity is not reproduced and may be read into this paragraph ad seriatim.

3. Counsel for the applicants/accused contends that, as per the FIR, the applicants were said to be travelling from Bhit Shah to Tando Adam Chowk and were found with the prohibited substances at Revenue Chowk. He contends that, in fact, it made no logical sense to be travelling along this route, as the applicant/accused themselves stated in the FIR that they were travelling from Hyderabad. Thus, the route relied upon by the prosecution would be out of the way, and the spy information is/was misleading; the raid was pre-planned and malafide, and the entire case of the police authorities was false. Counsel further argued that there was sampling error involving samples drawn from the alleged liquor bottles and that eventually the

samples were submitted to the Chemical Examiner after considerable delay, and thereafter, the Chemical Examiner submitted the Examination Report after considerable delay as well. Counsel further argued that the chemical analysis described the alcohol content as either 37% v/v or 65% p.s., which lacked definitiveness in the Chemical Examiner's Report. Finally, he argued that no public witness was present at the time of the applicants'/accused's arrest. Therefore, in the facts and circumstances of the case, given above, he submitted that the aforementioned open-ended issues constituted valid grounds for concession of bail.

4. Learned Assistant P.G contended that the chemical report was clear and the applicants/accused had been found to be in possession of unlicensed alcohol liquor. Further, the examination report clearly confirmed the contents of the liquor seized as being alcohol. In the circumstances, learned Assistant P.G contended that no ground for concession of bail was made out and the bail application is liable to be dismissed.

5. Heard and perused the record, and the following issues emerged from the matter:

- (i.) The Police Officers failed to associate any private person to witness the recovery of alleged contraband/intoxicants/liquor, and details whereof have not been mentioned in the FIR with the names/brand of the contraband/intoxicant/liquor; as such, the guilt of the applicants falls within the ambit of further inquiry as contemplated under section 497(2) Cr.P.C.
- (ii.) As per the FIR No.55/2026, while the same was registered with P.S. Bhit Shah on 28.04.2026, viz. the police papers, the alleged contraband/intoxicants/liquor was sent for chemical examination on 07.05.2026. This delay of almost ten (10) days in submitting the samples, and no explanation was/is given for such delay, requires further investigation; notwithstanding, too, that after the sample reached the Chemical Examiner, the latter took another almost two weeks to issue the Chemical Examination Report, which aspect also needs to be addressed and determined during trial.
- (iii.) Notwithstanding the above, the samples which were sent to the

Chemical Examiner had to be drawn either from each of the cartons in which the intoxicants were recovered, or at least from each bottle/commodity/item in the cartons from which the intoxicants were found inside. Clearly, the Chemical Examiner's Report was wanting concerning the samples of alleged intoxicants obtained from each carton and/or bottle and/or contraband item. The samples sent to the Chemical Examiner for inspection were not drawn as above, and only that quantity of contraband/intoxicants/liquor was relevant from which samples were drawn. Thus, the outcome of the same is a triable issue.

- (iv.) FIR was registered against the applicants/accused under Sections 3 and 4 of The Prohibition (Enforcement of Hadd) Order, 1979, and the punishment under Section 4 of the Hadd Order is two years, and, further, it is also a bailable offence, and to that extent of this alleged offence the applicant/accused is entitled to be admitted to bail as of right as contemplated under Section 496 Cr.P.C. With respect to Section 3 of the Hadd Order, the transport and sale of the intoxicants/liquor do not fall within the prohibitory clause; and further, even otherwise, if an offence does not fall within the prohibitory clause, the acceptance of bail is a rule and its rejection as an exception. Last but not least, the punishment under Section 3 is up to five years, and the punishment does not vary with the quantity of contraband/intoxicants/liquor seized.
- (v.) Finally, the learned APG has not found any criminal record of the accused/applicants in the CRO; hence, the release of the accused/applicants is unlikely to pose a threat to society and/or the public at large.

6. Given the above discussion, I am of the tentative opinion that the case of the applicants/accused, namely Sikandar Ali S/o Lakha Dino and Ghulam Rasool S/o Amb Khaskheli calls for further inquiry within the meaning of Section 497(2) Cr.P.C. Both the applicants/accused are entitled to concession of post-arrest bail. Accordingly, the applicants/accused are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rupees Three Lacs only (Rs.3,00,000/-) each and a personal recognition (P.R.) bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice or influence the trial Court while deciding the case on merits. In case the applicant(s) misuse the concession of bail in any manner, the trial Court shall be at liberty to take appropriate action in accordance with law, including, but not limited to, cancelling the bail.

8. Captioned bail application stands allowed in the above terms.

JUDGE

Sajjad Ali Jessar