

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

Constitution Petition No.D-1137 of 2025

**Before:**  
***Mr. Justice Yousuf Ali Sayeed;***  
***Mr. Justice Abdul Hamid Bhurgri.***

Petitioner : Waheed @ Wahid son of Noor Muhammad Soomro,  
through Mr. Mazhar Ali Leghari, Advocate.

Respondents : Dildar Ahmed Samoo, Sub-Inspector police posted at P.S Talhar District Badin and another,  
through Mr. Irfan Ali Talpur, Deputy Prosecutor General Sindh.

***Date of Hearing: 15.07.2025.***  
***Date of Order. 15.07.2025.***

**ORDER**

**Abdul Hamid Bhurgri, J.**- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199, seeking post-arrest bail in the face of the statutory bar contained in Section 35(1) of the Sindh Control of Narcotic Substances Act, 2024. Reliance is placed on the order dated 22.04.2025, passed by a three-member bench of this Court in Constitutional Petition No. D-937 of 2025. The petitioner is nominated in FIR No. 70 of 2025, registered at Police Station Talhar, District Badin, on 20.05.2025, wherein he is alleged to have been apprehended at the spot, with 540 grams of charas shown to have been recovered from his possession.

2. Per the version encapsulated in the First Information Report (FIR), on 20.05.2025 at approximately 1730 hours, complainant SIP Dildar Ahmed Samon, in the course of routine patrolling vide roznamcha entry No. 25, accompanied by his subordinates, proceeded from the police station. Upon traversing various localities, the police party reached Khan Muhammad Stop on Badin Road, where they observed a man bearing a black shopping bag. On sighting the law enforcement officials, the said individual attempted to abscond but was intercepted and apprehended at 1830 hours. Upon inquiry, he disclosed his name to be Waheed, also known as Wahid Ali, previously implicated in Crime No. 156/2024 of P.S. Talhar. A subsequent search of the shopping bags in his possession led to

the alleged recovery of two parcels one large and one small containing charas, cumulatively weighing 540 grams. A body search further yielded two currency notes of Rs.100/- each. A formal memo was prepared, and the accused, along with the seized contraband, was escorted to the police station where the present FIR was lodged.

3. Learned counsel for the petitioner has contended that the alleged recovery has been surreptitiously foisted upon his client, absent the presence of any independent witness. It was urged that the petitioner has been falsely implicated at the behest of adversaries stemming from a protracted land dispute. He asserted that the alleged offence does not fall within the parameters of the prohibitory clause and accordingly entreated this Court for grant of bail.

4. Conversely, the learned Deputy Prosecutor General opposed the petition, submitting that the petitioner is explicitly named in the FIR and that the recovery of charas is alleged to be exclusive to him. Counsel for the State further submitted that no evidence of enmity between the petitioner and the police has been furnished to support the theory of false implication. The State accordingly sought dismissal of the plea for bail.

5. We have heard the learned counsel for the petitioner and the learned Deputy Prosecutor General Sindh and have examined the material available on the record with due care and circumspection.

6. The offence alleged carries a penal sanction ranging from five to nine years' rigorous imprisonment. It is trite law that, at the bail stage, the Court is to consider the lesser end of the sentencing spectrum. Thus, the alleged recovery, not attracting the "prohibitory clause" threshold, renders the case amenable to further judicial consideration.

7. It further appears that the purported recovery took place in a densely populated area, yet no attempt was made to associate any independent witness at the relevant moment. It is a well-established legal principle that when the prosecution's edifice rests entirely upon police testimony and is devoid of corroboration from neutral witnesses, the benefit of such doubt must accrue to the accused even at the bail stage. Reliance is placed upon ***Muhammad Arshad v. The State (2022 SCMR 1555)***. Moreover, the petitioner has no antecedents of criminal conduct and cannot be categorized as a habitual offender.

8. Prima facie, the petitioner's case appears to require further inquiry. Although police officials are, in law, to be treated at par with independent witnesses, their credibility and veracity are ultimately subject to the crucible of cross-examination during trial.

9. In view of the foregoing considerations, the petition was allowed vide short order dated 15.07.2025, and the petitioner/accused was admitted to post-arrest bail, subject to furnishing a solvent surety in the sum of Rs.50,000/- and an equivalent personal bond to the satisfaction of the learned trial Court.

10. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the learned trial Court at the stage of final adjudication on merits. The petitioner is further directed to ensure his appearance on each and every date of hearing, without fail. In the event of default, the trial Court shall be at liberty to cancel his bail.

Judge

Judge