

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

Constitution Petition No.D-777 of 2025

**Before:**

***Mr. Justice Yousuf Ali Sayeed;***

***Mr. Justice Abdul Hamid Bhurgri.***

Petitioners : 1. Asif Ali son of Muhammad Ali Jatoi,  
2. Hyder Bux son of Ali Muhammad Jatoi,  
through Mr. Farhad Ali Abro, Advocate.

Respondents : The State and another,  
through Mr. Siraj Ahmed Bijarani,  
Assistant Prosecutor General Sindh.  
Mr. Muhammad Ismail Bhutto, Additional  
Advocate General Sindh,

***Date of Hearing:*** 28.07.2025.

***Date of Order.*** 28.07.2025.

**O R D E R**

**Abdul Hamid Bhurgri, J,-** Through this petition, both the petitioners have prayed for grant of post arrest bail in view of the embargo contained in Section 35(1) of the Sindh Control of Narcotic Substances Act, 2024. Reference is made to the judgment dated 22.04.2025, passed by a three-member bench of this Court in Constitutional Petition No. D-937 of 2025. The petitioners are accused in FIR No. 69 of 2025, lodged at Police Station Pinyari, District Hyderabad.

2. As per the FIR, on 06.05.2025 at 0740 hours, under Entry No. 49, the complainant ASI Karamuddin, along with his staff, departed the police station in a government vehicle for routine patrolling. After covering various areas, they reached Edhi Centre near Khursheed Tower, where the complainant received intelligence indicating that two individuals were engaged in selling charas near the water pond at village Adho Khan Jatoi. Acting upon the information, the police proceeded to the location and, at approximately 0810 hours, observed two persons carrying black plastic shoppers. Upon seeing the police party, both individuals attempted to flee but were apprehended along with the bags in their possession. One of the apprehended individuals disclosed his identity as Asif Ali. The shopper recovered from him was found to contain two slabs and a small piece of charas, weighing 1070 grams. A body search led to the recovery of three currency notes, each of Rs. 50. The second accused introduced himself as Hyder Bux. The shopper recovered from him similarly contained two slabs and a small piece of charas, with a total weight of 1090 grams. Upon his

personal search, two currency notes of Rs. 100 each were recovered. It is further stated that the recovered property was sealed separately and, after preparation of the relevant memo, both the accused and the contraband material were brought back to the police station, where the instant FIR was registered.

3. Learned counsel for the petitioners argued that the FIR is false and has been lodged with malafide intent. It was contended that no contraband material was recovered from the petitioners, nor were they arrested at the spot. Instead, the police fabricated a false narrative. The counsel also asserted that, despite the area being densely populated, no independent witnesses were cited. The petitioners, it was submitted, belong to respectable families, have no prior criminal record, and thus seek the concession of bail.

4. In contrast, the learned Assistant Prosecutor General opposed the bail plea, submitting that both petitioners are nominated in the FIR and substantial quantities of contraband were recovered from each of them. Therefore, it was argued that they are not entitled to bail at this stage.

5. We have heard the learned counsel appearing on behalf of the petitioners as well as the learned Assistant Prosecutor General, Sindh, and have thoroughly examined the material available on the record.

6. The alleged offence relating to recovery is punishable with imprisonment extending up to fourteen years, but not less than nine years. Nevertheless, it is a well-established legal principle that, for the purposes of bail, the lesser prescribed sentence must be taken into consideration.

7. Additionally, the alleged recovery is said to have taken place in a densely populated area, and it is claimed that the police had prior intelligence regarding the presence of the petitioners with contraband material. However, no neutral or independent witness was associated at the time of the alleged recovery. It is a settled canon of criminal jurisprudence that when the prosecution's case rests solely on official testimony, and lacks corroboration from impartial and independent witnesses, the benefit of doubt must necessarily be extended to the accused. Reliance is placed on the precedent set in ***Muhammad Arshad v. The State (2022 SCMR 1555)***. It is further noted that the petitioners

have no prior criminal antecedents and thus cannot be classified as habitual offenders.

8. Prima facie, the allegations levelled against the petitioners warrant further inquiry. Although official witnesses may be treated on par with private witnesses for evidentiary purposes, the credibility of their statements must nonetheless be tested at trial.

9. In view of the above considerations, the present petition was allowed vide short order dated 28.07.2025, and the petitioners/accused were granted post-arrest bail subject to furnishing solvent surety in the sum of Rs. 1,00,000/- each, along with a personal recognizance bond to the satisfaction of the learned trial Court.

10. It is clarified that the observations recorded hereinabove are merely tentative and shall not prejudice the learned trial Court in adjudicating the case on its merits. The petitioners shall ensure their punctual attendance on each and every date of hearing, failing which the trial Court shall be at liberty to recall the concession of bail.

Judge

Judge