

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

Constitution Petition No.D-1154 of 2025

**Before:**

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

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

Petitioner : Darhoon son of Khan Muhammad Rind,  
through Mr. Aakash Ali Rind, Advocate.

Respondents : P.O Sindh and another,  
through Mr. Irfan Ali Talpur,  
Deputy Prosecutor General Sindh.  
Mr. Muhammad Ismail Bhutto, Additional  
Advocate General Sindh,

***Date of Hearing: 21.07.2025.***

***Date of Order. 21.07.2025.***

**ORDER**

**Abdul Hamid Bhurgri, J.**- Petitioner Darhoon being an accused of alleged recovery of contraband material has filed instant petition 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. He is an accused in FIR No. 27 of 2025, lodged at Police Station Moya, District Tando Muhammad Khan on 14.06.2025, wherein he is alleged to have been apprehended on the spot with a recovery of 532 grams of charas from his possession.

2. FIR unfolds that on 14.06.2025 at 1800 hours vide entry No.11 complainant along with his staff left PS for patrolling and when they reached near Juneja Mori Yousuf Lashari link road, they saw a person having black shopper in his right hand, who seeing police party tried to evade but he was apprehended at 1820 hours along with shopper. On inquiry he disclosed his name as Darhoon. Shopper was opened and it was found containing four big and small pieces of charas, which were weighed to be 532 grams. His body search led to recovery of three currency notes each of Rs.100/-. After sealing of the property and preparation of memo, accused and property were brought at PS, where instant FIR was lodged.

3. Learned counsel for the petitioner submits that the FIR is false and has been registered with malafide intend and the contraband material has

been foisted upon the petitioner. He claimed no independent witnesses were cited, despite the area being densely populated. The petitioner, belonging to a respectable family and lacking prior criminal record, hence sought bail.

4. On the other hand, the learned Deputy Prosecutor General has opposed the grant of bail to the petitioner by submitting that the name of the petitioner has transpired in the FIR with a specific role; that the counsel for the petitioner has failed to demonstrate the existence of any enmity between the petitioner and the police officials, thereby negating any motive for the police to falsely implicate the petitioner in the present case. He prayed for dismissal of the petition for post arrest bail.

5. We have heard the learned counsel for the petitioner as well as the learned Deputy Prosecutor General Sindh and have perused the material available on record.

6. The alleged offence of recovery carries punishment of nine years but shall not be less than five years and it is a settled principle that, at bail stage, lesser punishment is to be considered. Consequently, the purported recovery from the petitioner does not fall within the ambit of an offence of a “prohibited degree”, thereby rendering bail the norm and incarceration the exception.

7. Furthermore, the alleged recovery is stated to have taken place in a densely populated locality; nonetheless, the police failed to associate any neutral or independent witnesses at the relevant time. It is a cardinal principle of criminal jurisprudence that where the prosecution’s case is premised exclusively upon official testimony, devoid of corroboration from impartial and independent witnesses, the benefit of doubt must necessarily accrue to the accused. In this regard, reliance is placed upon the precedent laid down in ***Muhammad Arshad v. The State (2022 SCMR 1555)***. Additionally, the petitioner has no prior criminal antecedents and, therefore, cannot be categorized as a habitual offender.

8. Prima facie, the accusations against the petitioner warrant further inquiry. While official witnesses may be accorded the same evidentiary value as private witnesses, the veracity of their statements must nonetheless be subjected to scrutiny during trial.

9. It is in view of the foregoing considerations that the petition was allowed vide a short order dated 21.07.2025 and the petitioner/accused was admitted to post-arrest bail subject to his furnishing a solvent surety in the sum of Rs.50,000/- and an equivalent P.R. 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 petitioner shall ensure his 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