

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Constitution Petition No.D-1075 of 2025

Before:

Mr. Justice Yousuf Ali Sayeed;

Mr. Justice Abdul Hamid Bhurgri.

Petitioner : Salman Ali son of Ghulam Abbas,
through Mr. Mashooque Ali Mahar,
Advocate.

Respondents : The State 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,- Through this petition Under Article 199 of the Constitution, the petitioner being an accused has 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 petitioner is accused in FIR No. 183 of 2025, lodged at Police Station A-Section Latifabad, District Hyderabad on 27.05.2025, wherein he is alleged to have been apprehended on the spot with a recovery of 1010 grams of charas from his possession.

2. Concise facts of the FIR are that on 27.05.2025 when at 2100 hours complainant in company of his subordinate staff during course of patrolling reached green tower chowk, Gulistan-e-Sarmast road Latifabad Hyderabad, saw a person, who seeing police party tried to evade but he was apprehended. He disclosed his name as Salman Ali and his body search led to recovery of two big pieces of charas, which were weighed to be 1010 grams. After sealing of the property at spot and preparation of memo, accused and property were brought at PS, where such FIR was lodged.

3. Learned counsel for the petitioner submits that the FIR is false and has been registered with malafide intend. He argued that neither contraband material was recovered from possession of petitioner nor he was apprehended at spot. It is contended that the petitioner has been

booked in this false case due to his failure to pay bribe to the police party. He contended that police had also taken away petitioner's father, who was also booked falsely in another FIR. He argued that police party illegally raided the house of petitioner and looted cash, gold, mobile phones, motorcycles etc. He further argued that grandmother of the petitioner had also filed an application under Section 491 Cr.P.C for recovery of petitioner and his father, but raid was failed and they both were booked in two separate FIRs. 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. Conversely, the learned Deputy Prosecutor General has opposed the grant of bail to the petitioner by submitting that the petitioner's name transpires in the FIR and contraband material in a considerable quantity was recovered from exclusive possession of the petitioner. 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 imprisonment which may extend to fourteen years but shall not be less than nine years and it is settled law that at bail stage lesser punishment is to be considered.

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. Record reveals that the petitioner's grandmother had also filed an application under Section 491 Cr.P.C, alleging illegal detention by the police. Although the application was dismissed on the ground that the petitioner was not recovered, the mere filing of such petition indicates that

there were concerns regarding the manner of arrest and police conduct. These allegations, though unproven at this stage, introduce an element of doubt about the prosecution's version as narrated in the FIR. Such matters merit thorough examination at the stage of evidence and, in the present circumstances, entitle the petitioner to the concession of bail.

9. 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.

10. 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.

11. 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