

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

Constitution Petition No.D-1189 of 2025

**Before:**

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

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

Petitioner : Aadil @ Adeel son of Muhammad Ali Ghumrani, through Mr. Mumtaz Ali Panhwar, Advocate.

Respondents : P.O Sindh and 3 others, through Mr. Irfan Ali Talpur, Deputy Prosecutor General Sindh. Mr. Muhammad Ismail Bhutto, Additional Advocate General Sindh,

***Date of Hearing:*** 29.07.2025.

***Date of Order.*** 29.07.2025.

**ORDER**

**Abdul Hamid Bhurgri, J.**- Through this petition, the petitioner Aadil alias Adeel being an accused of alleged recovery of contraband material has sought his 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. He is an accused in FIR No. 117 of 2025, lodged at Police Station Tando Jam, District Hyderabad.

2. As per the First Information Report, on 04.06.2025 at approximately 1200 hours, vide Entry No.14, the complainant, accompanied by his subordinate staff, departed from the police station for routine patrolling. While traversing various locations, the police party received intelligence regarding the alleged presence of the accused, Adeel, purportedly in possession of charas near Noor Shah graveyard. Promptly responding to the information, the police proceeded to the identified location and observed an individual carrying a black plastic shopper. Upon noticing the police presence, the said individual attempted to flee but was apprehended at 1300 hours, along with the shopper in question. The individual identified himself as Adeel. Upon search, the shopper was found to contain a piece of charas weighing 520 grams. The contraband was sealed on the spot, and a formal memo of arrest and

recovery was prepared. Subsequently, both the accused and the recovered substance were taken into custody and brought to the police station, where the instant FIR was formally lodged.

3. The learned counsel for the petitioner submitted that the recovery was falsely attributed to the petitioner, asserting that nothing was seized from his possession. It was argued that the petitioner had been maliciously implicated in the present matter due to a property dispute with one Wazeer Ali Khatiyani, in relation to which an FIR of injuries had also been registered. The petitioner was allegedly arrested at the behest of the complainant in that prior matter. It was further contended that the alleged contraband was foisted upon the petitioner, and no independent or neutral witness had been cited in support of the prosecution's version, notwithstanding the area being densely populated. The petitioner, being a man of respectable social standing and without any antecedent criminal record, accordingly sought the concession of bail.

4. On the contrary, the learned Deputy Prosecutor General opposed the prayer for bail, submitting that the petitioner is specifically named in the FIR and has been directly attributed with the recovery of contraband. It was further argued that the petitioner's counsel failed to demonstrate the existence of any enmity or motive on the part of the police to falsely implicate him. In the absence of such motive, and considering the gravity of the accusation, the State opposed the grant of post-arrest bail.

5. We have heard the submissions advanced by the learned counsel for the petitioner as well as the learned Deputy Prosecutor General Sindh, and have meticulously examined the material available on record.

6. The offence with which the petitioner stands charged carries a statutory punishment of imprisonment extending up to nine years, but not less than five years. However, it is a settled proposition of law that at the bail stage, the court is to be guided by the lesser prescribed sentence. In light of this principle, the alleged recovery in the present case does not attract the rigours of an offence of a "prohibited degree", thereby making bail the rule and incarceration the exception.

7. Moreover, the alleged recovery is stated to have occurred in a densely populated area, and the police were acting on prior intelligence.

Despite this, no neutral or independent witness was associated at the time of arrest and recovery. It is a foundational tenet of criminal jurisprudence that where the prosecution's case is built exclusively on official testimony, unsupported by impartial and independent corroboration, the benefit of doubt must necessarily accrue to the accused. Reliance is placed in this regard upon the dictum laid down in ***Muhammad Arshad v. The State (2022 SCMR 1555)***. Additionally, the petitioner is undisputedly without prior criminal antecedents and cannot be characterized as a habitual offender.

8. Prima facie, the allegations against the petitioner require further judicial scrutiny. While the testimony of police officials may carry equal evidentiary weight as that of private witnesses, the veracity of such statements must nonetheless be assessed critically during the course of trial.

9. In view of the foregoing circumstances, the petition was allowed vide short order dated 29.07.2025, and the petitioner was accordingly admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs. 50,000/- along with an equivalent P.R. bond to the satisfaction of the learned trial Court.

10. It is further clarified that the foregoing observations are merely tentative in nature and shall not be construed to prejudice the learned trial Court while adjudicating the matter on its own merits. The petitioner is directed to ensure his punctual attendance on each and every date of hearing, failing which the learned trial Court shall be at liberty to recall the concession of bail so granted.

Judge

Judge