

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD**

CP. No. D- 970 of 2025
[Rizwan v. The Province of Sindh & another]

BEFORE:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Yousuf Ali Sayeed

Petitioner : Through Mr. Zeeshan Bashir, Advocate

Respondent : Through Mr. Muhammad Ismail Bhutto, Addl. A.G. &
Mr. Siraj Ahmed Bijarani A.P.G

Date of hearing
& Decision: 08.07.2025

ORDER

ADNAN-UL-KARIM MEMON J:- Petitioner Rizwan Ali prays for his release on post-arrest bail in FIR No. 07 of 2025 registered at Police Station Otero Lal Village under Section 9(1)(3)(a) of the Sindh Control of Narcotic Substances Act, 2024.

2. On May 5, 2025, petitioner Rizwan Qureshi was arrested by ASI Allah Ditto's team at Otero Lal Village Chowk. Police claimed to have recovered 100 grams of "chars" on receiving spy information but petitioner denies their claim and maintains his innocence.

3. Petitioner's counsel argued that the Petitioner is innocent and he has been falsely implicated; that there is no specific role assigned to the petitioner and that the allegations are general; that the petitioner has been roped in this case on the instigation of Coordinator of Local MNA he has been disputed with him over a plot; that nothing was recovered from the petitioner and the alleged 100 grams of "chars" has been foisted by the police; that the police sent only 100 grams of charas for chemical analysis, not the entire alleged recovered narcotics raising doubts. Furthermore, the FIR lacks mention of an electronic scale when leaving the police station, questioning the measurement's accuracy; that there was violation of Section 17(2) of the Sindh Control of Narcotics Substances Act 2024, which mandates video recording of all raids, seizures, and arrests.; that there is no private witness despite the place of incident being populated area which is violation of Section 103 Cr.P.C.;

that the Complainant himself is I.O hence the case requires further inquiry. Counsel argued that the discrepancies and procedural flaws in the case create serious doubt. He lastly argued that the petitioner is in judicial custody with no risk of absconding or tampering with evidence; therefore, he prayed for post-arrest bail.

4. Learned A.P.G has objected to the grant of bail to the petitioner on the ground that he was arrested at the spot and charas was recovered from his possession; that the petitioner has failed to show any enmity and / or malafide on the part of police. Learned Additional A.G. has adopted the arguments of learned A.P.G. However, they both conceded that the petitioner has no previous criminal record.

5. Heard learned counsel for the parties and perused the record with their assistance and the case law cited at the bar.

6. The petitioner's bail under the Sindh Control of Narcotic Substances Act, 2024, is prima facie warranted due to significant procedural irregularities and lack of credible evidence. The FIR has material omissions concerning sealing and delayed transmission of alleged substance to the Chemical Lab. The prosecution case is based solely on the evidence of interested police officials, lacking independent corroboration. The petitioner's claim of his involvement on political basis requires evidence, which is only possible at trial. The petitioner has been incarcerated since May 5, 2025, with no significant trial progress. This prolonged detention without trial prima facie violates the fundamental right to liberty under Article 9 of the Constitution, exacerbated by the State's delay in establishing Special Courts under the new Act. While Section 35 of the Sindh CNS Act, 2024, restricts trial courts from granting bail, this Court's constitutional jurisdiction under Article 199 of the Constitution remains intact. This allows intervention when fundamental rights are violated or a miscarriage of justice is apparent, particularly given the procedural lapses and doubts in the prosecution case. In such circumstances, granting bail aligns with the principle that an accused is presumed innocent until proven guilty, and bail should not be withheld as punishment, especially when the case requires further inquiry.

7. We have noticed that the case of Ateebur Rehman v. The State (2016 SCMR 1424), which involved recovery of 1014 grams of heroin, and Aya Khan and another v. The State (2020 SCMR 350), which involved recovery of 1100 grams of heroin, and bail was granted by the Supreme Court. In principle, bail does not mean acquittal of the accused but only change of custody from police to the sureties, who, on furnishing bonds take responsibility to produce the accused whenever and wherever required to be produced. On the aforesaid proposition, we are fortified with the

decision of Supreme Court in the case of Haji Muhammad Nazir v. The State (2008 SCMR 807).

8. Keeping in view the meager quantity of narcotics recovered, which carries sentence of less than nine years, and the admission that the petitioner has no prior criminal record, this Constitutional Petition for bail has force.

9. These are the reasons for our short order of even date, by which the Petition for bail was allowed and the Petitioner was granted post-arrest bail in Crime No. 07 of 2025 registered at Police Station Otero Lal Village under Section 9(i)(3)(a) of the Sindh Control of Narcotic Substances Act, 2024, subject to his furnishing solvent surety in the sum of Rs. 50,000/- [Fifty Thousand] and P.R. Bond in the like amount to the satisfaction of trial Court.

10. The observation recorded hereinabove is tentative and shall not prejudice the case of either party at trial. However, the trial Court shall endeavor to examine the Complainant / his witnesses positively within a reasonable time. If the charge has not been framed, the same shall be framed before the date so fixed by the trial Court, and a compliance report shall be submitted through Additional Registrar of this Court. The Additional Registrar shall ensure compliance with the order.

J U D G E

J U D G E