

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

CP. No. D- 422 of 2025
[Nawab Ali v. The State]

BEFORE:

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

Petitioner : Through Mr. Nabi Bux Narejo, Advocate

Respondent : Through Mr. Ayaz Ali Rajpar, Addl. A.G. &
Mr. Dhani Bux Mari A.P.G

Date of hearing
& Decision: 09.07.2025

ORDER

ADNAN-UL-KARIM MEMON J. - Petitioner Nawab Ali seeks post-arrest bail in Crime No. 39 of 2025 registered at Police Station Samaro, District Umerkot under Section 9(i)3(a) of the CNS Act 2024,. The petitioner was arrested on alleged recovery of 110 grams of Charas.

2. Learned counsel argued that the petitioner is innocent and has falsely been implicated in this case due to malafide intentions; that the FIR is delayed by an hour without any plausible explanation suggesting collusion and consultation; that the FIR itself does not mention any purchaser or recovery from the possession of Petitioner; that the alleged recovery violates Section 103 Cr.P.C. and Sections 21 & 22 of the Narcotics Act as there was no independent witnesses despite the fact that the place of incident was a busy location. In support of his case, learned counsel cited the cases reported in **2007 SCMR 393 & 2014 MLD 1323**; that the petitioner has been in judicial custody since his arrest and is no longer needed for further investigation; that the prosecution case contains contradictions and legal flaws, raising serious doubts about the alleged recovery, which warrants the case being of further inquiry under Section 497(2) Cr.P.C. Learned counsel cited the case reported in **2008 MLD 1333**, stating that a single doubt is enough for bail; that bail should not be denied as a punishment, especially when there is no exceptional circumstances which justify it; that this Court vide order dated April 22, 2025, in C.P. No. D-937 of 2025 ruled that the Sessions Court lacks jurisdiction under Section 35 of the Sindh Control of Narcotic Substances Act, 2024, hence this constitutional petition.

3. 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. adopted the arguments of learned A.P.G. However, they both conceded that the petitioner has no previous criminal record.

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

5. 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).

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

7. 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. 39 of 2025, registered at Police Station Samaro, District Umerkot under Section 9(i)3(a) of the CNS Act 2024 subject to furnishing solvent surety in the sum of Rs.50,000/- and P.R. Bond in the like amount to the satisfaction of trial Court.

8. 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 the Additional Registrar of this Court. The Additional Registrar shall ensure compliance with the order.

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