

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Petition No.D- 908 of 2025

Date of hearing	Order with signature of Judge
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Before:

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Riazat Ali Sahar

Petitioner : **Muhammad Samiullah Rajput** through Mr. Abdul Fattah Samo, Advocate.

The Respondents: **The State and Province of Sindh** through M/s Zulfiqar Ahmed Jatoi, Additional P.G and Zulfiqar Ali Naich, Assistant A.G.

Date of Hearing : **09-07-2025**

Date of Decision : **09-07-2025**

O R D E R

RIAZAT ALI SAHAR, J. Through instant petition, petitioner Muhammad Samiullah Rajput Bhatti seeks his admission on post arrest bail in crime No.83 of 2025 registered with Police Station Daharki, District Ghotki for offence punishable under section 9 (1) Sr. 3 (A) Sindh Control of Narcotic Substances Act, 2024, for allegedly possessing 300 grams of Charas.

2. Since facts of the prosecution case are already mentioned in the FIR as well as in the memo of petition; therefore, there is no need to reproduce the same. Reliance is placed on the case of **Muhammad Shakeel v. The State & others** (PLD 2014 SC 458).

3. Learned counsel for the petitioner argued that the petitioner is innocent and has falsely been implicated in this case by the police and recovery of contraband material has been foisted upon him. He further contended that the recovery so affected from petitioner is 300 grams of charas is meager quantity besides the punishment for offence as provided under the Act is the imprisonment which may extend to five years but it shall not be less than ten months. Hence, he submitted that the statue provides two punishments; then lesser one may be considered at bail stage. He further argued that by virtue of Section 17(2) of the Act (as amended), the police official was under obligation to record video of recovery proceedings but he failed. He, therefore,

submits that case against the petitioner requires further enquiry hence by granting this petition, the petitioner may be directed to be released on bail.

4. Mr. Zulifqar Ali Jatoy, Additional Prosecutor General Sindh and Mr. Zulifqar Ali Naich, Assistant Advocate General Sindh after going through Section 7 of the Act and its provisions submit that petitioner is not previously convict, even no CRO has been made available to show any similar case pending against him, therefore, they have no objection for grant of bail. The learned Law officers further point out that challan of the case was submitted by Investigating officer on 12.06.2025 before the Court of Civil Judge & Judicial Magistrate Daharki which is still pending adjudication before the trial Court.

5. We have heard learned counsel for the petitioner as well as law officers and have gone through the material made available before us on record.

6. Allegedly, the petitioner has been nominated in the FIR, and recovery of 300 grams of contraband substance, viz. Charas, is shown to have been effected from his possession. However, the punishment provided by law for the said offence is the imprisonment which may extend to five years but it shall not be less than ten months. Hence, the alleged offence with which the petitioner is charged does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C, thus making bail the rule and jail the exception.

7. Furthermore, the non-association of private mashirs in such circumstances undermines the credibility of the prosecution case. Additionally, no video recording or photographic evidence of the recovery proceedings has been placed on record, despite the availability of technology and the statutory expectation of transparency under such circumstances. Reliance is placed on the cases of **Muhammad Abid Hussain v. The State (2025 SCMR 721)** and **Zahid Sarfaraz Gill v. The State (2024 SCMR 934)**. It is a well-entrenched principle that in cases hinging solely on police testimony, the benefit of doubt must be afforded to the accused, even at the bail stage. Reliance is placed on the case of **Muhammad Arshad v. The State (2022 SCMR 1555)**.

8. In the circumstances and in view of above legal as well as factual position of record the petitioner has succeeded to make out a good *prima facie* case for grant of bail. The case of petitioner is purely covered by Section 497(2) Cr.P.C. Accordingly, instant Petition was **allowed** by our short order dated 09.07.2025, whereby the petitioner **Muhammad Samiullah Rajput** was ordered to be released on bail 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 the trial Court, as the case may be. These are the reasons in support of our above short order.

9. Needless to mention here that the observations recorded hereinabove are tentative in nature and shall not, in any manner, prejudice or influence the trial Court during the adjudication of the case.

JUDGE

JUDGE

Ahmad/P.S