

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Const. Petition No.D- 842 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 : **Farooque Ahmed Shanbani** through Mr. Muhammad Hamzo Buriro, Advocate.

The Respondents: **The State and Province of Sindh** through M/s Syed Sardar Ali Shah, Additional P.G and Agha Athar Pathan, Assistant A.G along with SIP/SIO Nisar Ahmed Abro.

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

**O R D E R**

**RIAZAT ALI SAHAR, J.** By way of this petition, petitioner Farooque Ahmed son of Khadim Hussain by caste Shanbani, seeks his release on post arrest bail in crime No.35 of 2025 under section 9 (i), 3(b) Sindh CNS Act, 2024, registered at Police Station Dubar, District Sukkur, for allegedly possessing 600 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. Record reflects that interim challan was submitted by the police on 10.06.2025 and final challan yet to be submitted after collecting the Chemical Examiner’s report. Since the statute does not provide a

specific provision for filing a bail application, and there being no alternate remedy, the petitioner has maintained this petition.

4. Learned counsel for the petitioner argued that the petitioner is innocent and has falsely been implicate din this case by the police and the alleged recovery of contraband has been foisted upon him. He further argued that 600 grams of Charas alleged to have been recovered from the petitioner; complainant who arrested and recovery contraband is Head Constable is not competent to arrest the petitioner particularly in Narcotic cases. He further submitted, although the punishment for offence under the Sindh CNS Act, 2024 is “may extend to nine years, it shall not be less than five years”. Since, the lesser quantum of sentence has been provided which does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C, hence he contended that the case against the petitioner requires further inquiry and prayed for grant of bail.

5. Learned Law Officers, in view of above facts and circumstances, have recorded their no objection.

6. 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.

7. No doubt, the petitioner has been nominated in the FIR, and 600 grams of contraband substance, viz. Charas, is shown to have been recovered from his possession. However, the punishment provided by law for the said offence is the imprisonment which may extend to fourteen years but it shall not be less than nine years. As per the

settled principle, when a statute provides two sets of punishment, the lesser one is to be considered at the bail stage. It is also a settled principle of law that every accused is presumed to be innocent unless proven guilty, and the law cannot be stretched in favour of the prosecution, particularly at the bail stage.

8. In the present case, although the alleged recovery is of 600 grams of Charas, the surrounding circumstances create substantial doubt. The FIR and recovery was allegedly effected by a Head Constable, who, under the relevant statutory framework, lacks the requisite authority to conduct such operations. 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).

9. In the circumstances and in view of above legal as well as factual position of record the petitioner has successfully made out a good *prima facie* case for grant of bail. The case of petitioner is purely covered by Section 497(2) Cr.P.C. Consequently, instant Petition was **allowed** by our short order dated 09.07.2025, whereby the petitioner

**Farooque Ahmed Shanbani** 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. These are the reasons in support of our above short order.

10. 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