

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Petition No.D- 898 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 : **Zaheer Rehman Pathan** through Mr. Nadeem Ahmed Malik, 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 a/w SIP/SIO Mumtaz Ali Ujjan and SIP Ali Murad on behalf of SSP, Khairpur.

Date of Hearing : **08-07-2025**
Date of Decision : **08-07-2025**

O R D E R

RIAZAT ALI SAHAR, J. By way of this petition, petitioner Zaheer Rehman son of Mir Sahib Khan Pathan, seeks his release on post arrest bail in crime No.154 of 2025 under section 9 (a) CNS (Amendment) Act, 2022, registered at Police Station Shaheed Murtaza Mirani, District Khairpur, for allegedly possessing 30 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, interim challan was submitted by the police on 01.07.2025 and the final report under Section 173 Cr.P.C is yet to be submitted after collecting 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 nothing contraband was recovered from his exclusive possession and the same has been foisted upon him. He next argued that alleged recovery of contraband substance, viz. Charas weighing thirty grams, constitutes a meager quantity. He submitted that although the punishment for said offence under the CNS (Amendment) Act, 2022 is "*imprisonment which may extend to five years and it shall not be less than ten months*", however, looking to the lesser quantum of sentence, the case does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C. He, therefore, 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. Allegedly, the petitioner has been nominated in the FIR, and 30 grams of contraband substance, viz. Charas, is shown to have been recovered from his possession, constitutes a meager quantity and the punishment for said offence under the CNS (Amendment) Act, 2022 is the imprisonment which may extend to five years and it shall not be less than ten months; hence, the alleged offence does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C, thus making bail the rule and jail the exception.

8. For what has been discussed above, we are of the opinion that prima facie, the petitioner has successfully made out a good case for grant of bail. The case of the petitioner is purely covered by Section 497(2) Cr.P.C. Consequently, instant Petition was **allowed** by our short order dated 08.07.2025, whereby the petitioner **Zaheer Rehman Pathan** was ordered to be released on bail subject to his furnishing solvent surety in the sum of **Rs.25,000/- (Twenty Five Thousand)** and P.R bond in the like amount to the satisfaction of the 3rd Civil Judge &

Judicial Magistrate, Khairpur/trial Court or 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