

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-1017 2025

Applicant : Neranjan Neru son of Ashok Kumbar, Hindu
Through Mr. Abdul Qayoom, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of Hearing : 03.11.2025

Date of Decision : 03.11.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Neranjan Neru seeks post arrest bail in a case bearing crime No.238/2025, for offences under Sections 3 & 4 of the Prohibition (Enforcement of Hudood) Order (PEHO) registered at Police Station Pano Akil. Prior to this, his bail plea was declined by the Court of learned Additional Sessions Judge Pano Akil vide order dated 16.10.2025.

2. The prosecution case, at its core, rests on the facts that on 23.09.2025 at about 10:10 hours, complainant HC Mehaar Ali along with subordinate police staff, while on routine patrolling, apprehended the applicant at Mahesar Patrol Pump. Subsequently, a search was conducted and 07 boxes of wine containing 240 quarters in addition to 44 half bottles were recovered from his possession. The arrest and recovery proceedings were reduced into a *mashirnama* at the spot, in the presence of mashirs, following which the FIR was registered against the applicant.

3. The learned counsel for the applicant vehemently submits that the entire recovery exercise suffers from procedural irregularities, notably a violation of Section 103 Cr.P.C., rendering the arrest and seizure unlawful and the applicant falsely implicated. He further highlights theailable nature of Article 4 of the PEHO and asserts that offense under Article 3 attracts a maximum imprisonment up to five years. He contends that such quantum of punishment places the offense outside the realm of the prohibitory clause under Section 497 Cr.P.C, thus rendering the refusal of bail unjustified. Additionally, he alleges a misapplication of Article 3 of PEHO in the instant facts, urging the court to extend the benefit of bail to the applicant.

4. Contrarily, learned Deputy Prosecutor General contests that the recovery involves a substantial quantity of intoxicating liquor, which is detrimental to societal interests. He argues that the gravity of the offense mandates stringent treatment and that the case falls within the exceptions under Section 497 Cr.P.C. to justify denial of bail.

5. Upon meticulous hearing of the learned counsel for the parties and perusal of the record, the following points emerge for determination:

6. *Firstly*, the penal provisions under PEHO distinguish between offenses under Articles 3 and 4, prescribing imprisonment terms that determine the applicability of the prohibitory clause of Section 497 Cr.P.C. Articles 3 offenses carry a punishment of up to five years, while Article 4 offence is punishable up to two years and are explicitly bailable. The jurisdiction of this court to grant bail therefore revolves around whether the charge attracts the prohibitory clause, and whether any exceptional factors exist to inhibit bail.

7. The Honourable Supreme Court of Pakistan has repeatedly affirmed that refusal of bail in cases not falling within the prohibitory clause is an exception to the rule and must be supported by compelling grounds. In the landmark judgments of *Tariq Bashir v. The State* (PLD 1995 SC 34), *Muhammad Tanveer v. The State* (PLD 2017 SC 733), *Sheikh Abdul Raheem v. The State* (2021 SCMR 822), and *Muhammad Daniyal Farrukh Ansari v. The State* (2021 SCMR 557), the Court underscored that bail is a right where the offense is bailable or punishable with less than seven years imprisonment, absent exceptional circumstances.

8. The categorical principles laid down in *Muhammad Imran v. The State* (Crl.P.860-L/2021), articulated on 05.08.2021, elucidate that exceptions justifying denial of bail include:

- (a) likelihood of the accused absconding to evade trial;
- (b) probability of tampering with evidence or influencing witnesses to obstruct justice;
- (c) commission of a repetitive offense or reckless conduct during the commission indicating culpability.

9. In the instant matter, learned Deputy Prosecutor General has failed to demonstrate any tangible evidence or circumstance satisfying these exceptions. There is no indication that the applicant poses flight risk, or evidential interference, nor is there record of prior conduct indicating willful recidivism or desperate criminality.

10. Moreover, it is a settled and well-recognized principle that bail proceedings require a tentative appraisal of evidence rather than a detailed investigation or final adjudication. The adherence to such principle safeguards the liberty of the accused, except where extraordinary grounds prevail to justify its curtailment.

11. Based on the tentative scrutiny of materials on record, substantive infirmity surfaces in the arrest and recovery procedure, as alleged, and the prosecution evidence prima facie does not establish the applicant's guilt beyond reasonable doubt at this stage. The applicant has, therefore, made out a case requiring further inquiry, warranting the grant of bail.

12. Accordingly, the application for post-arrest bail is allowed, subject to the applicant furnishing solvent surety in the amount of Rs.50,000 (Rupees Fifty Thousand only) and a personal bond in the like amount, to the satisfaction of the trial court.

13. It is explicitly clarified that the observations herein are tentative in nature and shall not prejudice either party's case at trial or affect the evidentiary value of the prosecution material.

J U D G E