

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Bail Application No. S-986 of 2024
(Bilal Mujahid & another Vs. The State)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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- 1. For Orders on office objection at flag “A”
- 2. For hearing of Bail Application

13-03-2025.

Mr. Ubedullah Malano, Advocate for the applicants.
Syed Sardar Ali shah Rizvi, Addl: Prosecutor General.

ALI HAIDAR “ADA”, J.-. The applicants Bilal Mujahid son of Mujahid Hussain Baloch and Mushtaque son of Wakeel Muhammad Jatto seek their post arrest bail in Crime No. 515/2024, registered at Police Station Daras for offence punishable under section 7/8 Main Puri Gutka Act, as earlier their post arrest bail was declined by the Learned Trial Court vide order Dated 25-11-2024 as well by Learned Additional Sessions Judge-I/(MCTC)/Naushahro Feroze vide order dated 07-12-2024, as then after prefer instant Bail application.

2. The brief facts of the Prosecution Case inter alia are that on 15-11-2024 the complainant party headed by ASI Muhammad Ramzan left Police Station for patrolling, during patrolling received spy information that one Van of white colour is coming from Sukkur to Hyderabad and the same was loaded with Mawa and Gutka and three persons were boarded in that Van. After receiving such information, the police party proceeded towards pointed place, during snap checking they saw that one Van of white colour was coming from Sukkur, on seeing police party one person made his escape good while remaining two were apprehended by the police party. Due to non-availability of private mashirs, the complainant deputed his subordinate staff to act as mashir. During interrogation, the applicants disclosed their names while the 26 bags of Choora of Gutka Mawa were recovered from Van and the same were weighed which became 20 kg each and total weight became 520 kilograms while other articles in shape of mobile phones

and some cash amount were also secured from their possession. As from those 26 bags, one bag of 20 kg was separated for chemical analysis. Such mashirnama of arrest and recovery was prepared at the spot. Thereafter, accused and case property were brought at Police Station, where complainant lodged the FIR against the accused on behalf of the State for the offence under section 7/8 of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act 2019 (Sindh Act III 2020).

3. The Learned Counsel for the applicant submits that applicant is innocent and falsely been implicated in this case; that even the investigation is failed to connect the applicants with the vehicle, further submits that offence does not falls under the prohibitory clause and the applicants have no more required for any further investigation. He has placed reliance upon case of *Muhammad Eidan Vs. The State (2022 PCrLJ 143)*.

4. Learned Additional Prosecutor General supports the order of trial Court and further added that recovery is effected from physical possession of the applicants; therefore they are not entitled for concession of bail.

5. It transpires from the record that no sample from each bag was separated as only one bag out of 26 bag was separated as sample for chemical analysis. Further all the witnesses are police officials and there is no any likelihood of tempering with the prosecution evidence. Record reflects that place of occurrence is situated near to Hotel as mentioned in FIR, but neither private person was cited as witness in the proceedings nor the complainant tried his level to call any private person. The Case has been challaned and applicants are no more required for any further investigation. In case of *Muhammad Eidan* as mentioned supra, it is held by this Court as the same is reproduced as under:-

“Record reflects that alleged recovery was effected from the populated area but no private person was associates as witness in the

proceedings nor the complainant tried. All the witnesses are police officials; therefore, there is no apprehension of tempering the evidence. The investigation of case is completed and the challan has been filed before the court having jurisdiction, therefore, the custody of applicant is not required for further investigation."

8. Further the reliance is placed upon the order passed by this Court in case of ***Karam Khan and another Vs. The State*** passed in CrI Bail Application No. S-635 of 2021. Prima facie, the punishment u/s 8 (1) of Act 2020 is provided for three years which does not exceed the limits of prohibitory clause. Reliance is also placed on case of ***Abdul Raheem Vs. The State (2021 SCMR 822)***.

9. In view of the foregoing reasons, the applicants have make out their case for grant of post arrest Bail. Accordingly, instant Bail application is allowed and applicants named above are admitted to post arrest Bail subject to furnishing their solvent surety in the sum of Rs. 1, 00,000/- (One Hundred Thousand Rupees Only) each and P.R Bond in the like amount to the satisfaction of Learned trial Court.

10. Needless to mention that the observation made hereinabove are tentative in nature and shall not prejudice the case of either party at the time of trial.

J U D G E

Nasim/P.A