

IN THE HIGH COURT OF SINDH KARACHI

CR. BAIL APPLICATION NO.2188 OF 2025

Applicant : Saifullah s/o Rehmatullah,
through Mr. Muhammad Saeed
Shahzad & Mohsin Ali Chandio,
Advocates

Respondent : The State
through Ms. Rahat Ahsan,
Additional Prosecutor General

Date of hearing : 23rd September 2025

Date of announcement: 9th October 2025

ORDER

Omar Sial, J.: Saifullah, son of Rehmatullah, has sought post-arrest bail in crime number 539 of 2025, registered under section 8-A (i) of The Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019, at P.S. Gadap City Karachi. The learned 6th, Additional Sessions Judge, Malir Karachi, dismissed his earlier bail application vide order dated 06.08.2025.

2. A police party of Police Station Gadap, led by S.I.P. Nazeer Ahmed, while patrolling, stopped a car on the Main Super Highway, Karachi, for checking purposes. The driver disclosed his name as Saifullah and from the said car one sack containing gutka mava weighing 10 Kgs and 19 sacks of battle nuts weighing 247 Kgs were recovered.

3. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General.

4. The learned Additional Prosecutor General confirmed that this is the first time that the applicant has been charged with an offence

under the Act of 2019. He would therefore be potentially liable to a punishment of up to three years. The offence is non-bailable; however, it falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping in view the principles laid down in **Tariq Bashir and 5 others vs The State (PLD 1995 SC 34)**, I do not see any exceptional or extraordinary reasons to deny the applicant bail. The learned trial judge has cited three cases in support of the proposition that it is not a rule that bail be granted in cases which fall under the non-prohibitory clause. The Supreme Court, however, in the case mentioned above, has held that bail should generally be granted unless there are extraordinary or exceptional grounds to decline it. It must also be kept in mind that declining bail in cases with relatively shorter punishments would mean that, in all probability, an accused would complete his sentence before he is adjudged an offender by a competent court of law. It must also be considered that keeping everybody in jail means a higher burden on the State Exchequer. It is well settled that denial of bail should not be a substitute for punishment.

5. Given the preceding, the bail application is allowed. The applicant, Saifullah, son of Rehmatullah, is admitted to post-arrest bail subject to his furnishing a solvent surety in the sum of Rs. 500,000 and a P.R. Bond in the same amount to the satisfaction of the learned trial court.

J U D G E