

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Bail application No.S-747 of 2025

Applicant : Muhammad Shahzad son of Shahid through
Mr. Zubair Ahmed Khuhawar, advocate.

Respondent : The State, through Ms. Safa Hisbani,
Assistant Prosecutor General, Sindh along
with SIP Sain Dino.

Date of hearing : **12.09.2025**
Date of order : **12.09.2025**

ORDER

TASNEEM SULTANA, J.- The applicant, namely Muhammad Shahzad, seeks post-arrest bail in Crime No.147 of 2025, registered at Police Station Hala New, District Matiari, under Sections 3, 4, 8 (i) of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019. His bail plea was earlier declined by the learned Additional Sessions Judge, Hala, vide order dated 01.07.2025.

2. Brief facts, as alleged in the FIR, are that on 22.06.2025 complainant ASI Sain Dino Khaskheli, of PS Hala New, along with his subordinate staff, were on patrolling duty. Meanwhile, when they reached *Maal Piri*, Hala, received spy information that a person was transporting intoxicant raw Suparies and Z-21 in a Mazda No. JY-6744 from Sandhan Chowk bypass towards Hala. Acting upon this information, the complainant party proceeded to the pointed place and at about 1730 hours intercepted the said Mazda vehicle, which appeared to be loaded. The driver was stopped strategically with the government vehicle. Upon inquiry, the driver disclosed his name as Muhammad Shahzad Pirzado. On checking the Mazda, 20 sacks of different colors were found containing about 10 kilograms each of cut Suparies, and 10 other sacks were found containing total 250 packets of Z-21, totaling 27,500 sachets. From these, 5 sachets were separated from one packet for chemical examination. He disclosed that he was carrying the said Z-21 and Suparies from Karachi to Hala, where he used to prepare Gutka from the same for sale. On commission of offence under Section 8 of the SGM Act, the accused was taken into custody. His personal search led to recovery of two currency notes of Rs.500/- from his pocket. The Mazda vehicle No. JY-6744, blue in color, Engine No. S71267606-A, Chassis No. MMC 02-0519, was also taken into custody under Section 550 Cr.P.C, memo of arrest and recovery was

prepared in presence of police mashirs Asif Sario and Shahneel Laghari. Thereafter, the accused along with the case property was brought to the police station, where FIR was lodged against him accordingly.

3. Learned counsel for the applicant contended that the alleged offence do not fall within the prohibitory clause of Section 497 Cr.P.C., as maximum punishment provided therein is three years; that there exist no reasonable grounds to believe that the applicant committed the alleged offence; that the case rests on police witnesses only, who are interested and subordinate officials; that FIR was lodged with a delay of one and half hour without explanation, rendering it doubtful; that no independent mashir was associated, which diminishes credibility; that the applicant has remained in custody since 22.06.2025; that the delay in lodging FIR and absence of independent corroboration creates doubt, which must go in favour of the accused at bail stage; that applicant is neither a hardened nor previous convict, hence his case falls within the scope of “further inquiry” under Section 497(2) Cr.P.C. Reliance is placed on 2022 PCrLJ 143 (*Muhammad Eidan versus The State*) and 2022 PCrLJ Note 118 (*Abdul Aziz versus The State*).

4. Conversely, learned Assistant Prosecutor General opposed the instant bail application, and contended that huge recovery of Gutka was effected from the vehicle driven by the applicant, his name is specifically mentioned in FIR; that the offence under the Gutka and Manpuri Act, 2019, affects the society at large; that no malafide is attributable to the police for false implication.

5. Heard and record perused.

6. It is manifest from the record that the recovery was allegedly effected from the vehicle and not from the exclusive person or possession of the applicant. Whether such recovery can legally be attributed to the applicant is a matter that requires determination by the trial Court after recording of evidence. At this stage, the Court is not expected to enter into deeper appreciation of evidence but only to assess whether reasonable grounds exist for believing that the applicant/accused is connected with the commission of the alleged offence. The absence of any independent mashir from the locality, despite the occurrence at a public place, calls for further inquiry into the prosecution case.

7. The investigation in the case has been completed, and challan has already been submitted before the competent Court. Hence, the continued detention of the applicant would serve no useful purpose, particularly when there is no apprehension of tampering with prosecution evidence, which primarily comprises of police witnesses.

8. It is also relevant to note that the maximum punishment provided under Section 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 is three years, while the minimum punishment is one year with fine. Offences carrying such sentence do not fall within the prohibitory clause of Section 497, Cr.P.C. It is a well-recognized principle that while considering bail, the Court must take into account the lesser punishment prescribed for the offence. This Court in *Shehzore's case* (2006 YLR 3167) allowed bail on such consideration, and the Honourable Supreme Court in *Tarique Bashir v. State* (PLD 1995 SC 34) has held that in offences not falling within the prohibitory clause, grant of bail is a rule and refusal an exception.

9. Keeping in view the tentative assessment of the material so far available, coupled with the doubtful circumstances surrounding the recovery proceedings and the lesser sentence prescribed, the case of the applicant squarely falls within the ambit of further inquiry under Section 497(2), Cr.P.C. Hence, the applicant succeeded in making out a case for grant of post-arrest bail. Resultantly, this bail application was allowed vide my short order dated 12.09.2025 and the applicant was admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- and PR bond in the like amount to the satisfaction of Trial Court and these are the reasons for the same.

10. Needless to mention that observations made hereinabove are tentative and shall not prejudice the learned Trial Court at the stage of trial.

JUDGE

Irfan Ali