

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

Cr. Bail Application No. S- 533 of 2020

DATED	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

24.07.2020

Mr. Asif Chaudhry, Advocate for applicant.

Ms. Sobia Bhatti, A.P.G for State.

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ZAFAR AHMED RAJPUT, J- Having been rejected his earlier Cr. Bail Application bearing No. 276 of 2020 by the learned Sessions Judge, Umerkot vide order dated 08.06.2020, applicant Sadiq son of Muhammad Siddique, through instant application, seeks post-arrest bail in Crime No.14 of 2020, registered under section 3, 4, 8 of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale & Use of Gutka Mainpuri Act, 2019 (Sindh Act No.III, 2020) at P.S. Pithoro.

2. Precisely, the allegation against the applicant is that on 27.05.2020 at 1300 hours he was arrested by a police party headed by Inspector Vija Kumar, SHO PS Pithoro from Sim Nala Mori situated on Pithoro Bachaband road and having being found in possession of 10 packets of JND Gutkas, 10 packets of AKG Gutkas, total 2150 Sashays.

3. Learned counsel for the applicant / accused has contended that applicant is innocent and has falsely been implicated in this case; that despite prior spy information the complainant failed to arrange the private witness to witness the alleged recovery and despite of the fact that the alleged recovery was shown effected in day time from a busy area, no private mashir was taken from the locality; that there is no previous criminal record of applicant of indulging in any such like activity; that the alleged offence being punishable for three (03) years does not fall within the prohibitory clause of Section 497 Cr.P.C; hence, the applicant is entitled for grant of post-arrest bail.

4. Conversely, learned A.P.G appearing on behalf of the State has opposed this application on the ground that applicant was found in possession of huge quantity of Gutka which as per the report of

chemical examiner, not recommendable for human consumption within the meaning of section (5) of Pure Food Ordinance, 1960 and also contravenes the provisions of Rule (11) of Sindh Pure Food Rules, 1965.

5. I have heard the arguments of learned counsel for the applicant and learned A.P.G for the State and perused the material available on record with their assistance.

6. It appears that the applicant was arrested on 27.05.2020 and since then he in judicial custody. The police has submitted challan hence, his custody is no more required for further investigation. The alleged offence being punishable for three (03) years does not fall within the prohibitory clause of Section 497 Cr.P.C. In such like cases, basic rule is bail not jail. The trial is likely to take some time and no fruitful result shall come out in case the applicant / accused is kept in judicial custody for an indefinite period.

7. Accordingly, this Cr. Bail Application is allowed. Consequently, the applicant is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- [Rupees Fifty Thousand] and PR bond in the like amount to the satisfaction of trial Court.

8. Needless to mention here that in case applicant/accused in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing requisite notice.

JUDGE

Tufail