

# **THE HIGH COURT OF SINDH AT KARACHI**

## **Criminal Bail Application No.2601 of 2025**

Applicant : Muhammad Ali son of Abdul Lateef  
through Mrs. Fouzia Mushtaque,  
Advocate

The State : Through Mr. Siraj Ahmed Khan  
Chandio, Addl: Prosecutor General,  
Sindh

Date of hearing : 29.10.2025

Date of decision : 29.10.2025

## **ORDER**

**Jan Ali Junejo, J.-** The Applicant, Muhammad Ali S/o. Abdul Lateef, seeks post-arrest bail in Crime No.433/2025, registered at Police Station Tipu Sultan, Karachi East, under Section 8A(i) of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 (hereinafter referred to as “the Act”). The learned 2nd Additional Sessions Judge, Karachi South, declined his bail plea vide order dated 04.09.2025. Feeling aggrieved, the Applicant has approached this Court under Section 497 Cr.P.C.

2. According to the FIR, complainant SIP Iftikhar Ahmed, while on routine patrol along with police staff, noticed a suspicious white Suzuki Hiroof vehicle (No. CK-6072) parked near Do Moria Bridge, Chanesar Goth. Three persons were seen fleeing the spot carrying bags, while one person, seated in the driver’s seat, identified himself as Muhammad Ali (Applicant). Upon search of the vehicle, 29 bags containing sachets of Gutka/Mawa were recovered, each bag weighing around 18 kilograms, totaling approximately 593.85 kilograms. The Applicant was arrested on the spot. The FIR was accordingly registered under Section 8A(i) of the Act.

3. Learned counsel for the Applicant argues that the Applicant is innocent, has been falsely implicated in the case, and was merely the driver of the vehicle from which the alleged recovery was made; nothing was recovered from his direct possession. She contends that the offence

under Section 8A(i) of the Act does not fall within the prohibitory clause of Section 497, Cr.P.C., as the maximum punishment prescribed thereunder is imprisonment up to three years. She further argues that no independent or private witness was associated at the time of the alleged recovery, in violation of Section 103, Cr.P.C., and that the purported recovery from a public place during daytime without private witnesses seriously undermines the credibility of the prosecution case. She, therefore, prays for the grant of bail in the interest of justice.

4. Conversely, the learned Additional Prosecutor General, assisted by SIP Iftikhar Ahmed, contends that the Applicant was apprehended red-handed while transporting a large quantity of *Gutka/Mawa*, a prohibited and injurious substance, and therefore does not deserve any leniency at the bail stage. He, accordingly, prays for dismissal of the bail application.

5. I have considered the arguments advanced by the learned counsel for both sides and carefully perused the record. The offence alleged falls under Section 8A(i) of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019, which reads as follows:

***“8. Punishment for contravention of sections 3, 4, 5, 6 and 7. (1) Whoever contravenes the provisions of sections 3, 4, 5, 6 and 7 shall be punishable with imprisonment which may extend to three years but shall not be less than one year and shall also be liable to fine which shall not be less than two lac (Two Hundred Thousand) rupees.***

***(2) In case of default of payment of fine under sub-section (1), the accused shall undergo an additional imprisonment extending to six months and in case of subsequent offence shall be punished with imprisonment for a term which may extend to ten years but shall not be less than five years and fine which shall not be less than five lacs (Five Hundred Thousand) rupees”.***

It is clear that the maximum punishment under the said provision does not exceed three years, and therefore, the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C.

6. Before proceeding further, it is important to refer to the definition of “Gutka” and “Manpuri” as provided under clause (vii) of Section 2 of the Act, which states:

***“(vii) ‘Gutka’ and ‘Manpuri’ means—***

***(a) any mixture which contains any of the forms of chalia (betel nut), catechu, tobacco, lime and other materials as its ingredients which is injurious to health and not fit for human consumption within the meaning of Section 5 of the Sindh Pure Food Ordinance, 1960, and is also in contravention to the provisions of Rule 11 of the Sindh Pure Food Rules, 1965; and***

***(b) any substance prepared for human consumption and is posing a serious threat to the health of people and includes such substances as Government may, by notification in the official Gazette, declare to be such substances.”***

It is yet to be determined whether the substance allegedly recovered from the vehicle falls within the statutory definition in question. Moreover, the issue also arises as to whether the Applicant was knowingly involved in its preparation, storage, or sale, or merely acted as a driver without ownership or control over the vehicle, matters that require further inquiry within the meaning of Section 497(2), Cr.P.C. It is also significant that no manufacturing apparatus or ingredients were recovered from the Applicant's possession, nor has the prosecution produced any documentary evidence establishing his ownership of the seized vehicle. The prosecution's case thus rests primarily on the statements of police officials, without corroboration from any independent witness, despite the alleged incident having occurred in a populated area. The failure to associate private witnesses as mandated under Section 103, Cr.P.C. casts serious doubt on the genuineness of the alleged recovery.

7. In Case of ***Tariq Bashir and others v. The State (PLD 1995 SC 34)***, it was held that when an offence does not fall within the prohibitory clause, bail should ordinarily be granted unless there exist exceptional circumstances. The Honourable Supreme Court in ***Muhammad Amjad Naeem v. The State through Prosecutor General Punjab and another (2025 SCMR 1130)*** reaffirmed the principle that: *“There is also another important legal aspect of this case, namely, that bail was refused vide the impugned judgment, notwithstanding the fact that the offence of criminal breach of trust punishable under section 406 P.P.C does not fall within the prohibitory clause of section 497(1) Cr.P.C. This refusal becomes questionable when examined in light of the settled principle of law, namely, that in cases involving commission of non-bailable offences not falling within the prohibitory clause of 497(1) Cr.P.C, bail is granted as a rule and refusal is an exception”*. The Applicant has remained in custody since arrest; investigation is complete and challan has been submitted. No useful purpose would be served by keeping him behind bars until the conclusion of trial. Hence, the case is one of further inquiry within the meaning of Section 497(2) Cr.P.C.

8. For the reasons stated above, this Criminal Bail Application is allowed. The Applicant Muhammad Ali S/o. Abdul Lateef is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and a P.R. bond in

the like amount to the satisfaction of the learned Trial Court. The observations made hereinabove are tentative and confined to the adjudication of the present bail application, and shall not prejudice the case of the prosecution at trial. The Applicant is directed to attend the Trial Court regularly, and not misuse the concession of bail. In case of any misuse, the prosecution shall be at liberty to seek cancellation of bail through due process of law. These are the detailed reasons for the short order announced on 29.10.2025.

**JUDGE**

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