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IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

1<sup>st</sup> Cr. Bail Appn. No. S-171 of 2022

Khamiso Bhatti & others  
Vs  
The State

Applicants : Through Mr. Safdar Ali Ghouri, Advocate.  
State : Through Mr. Imran Ali Abbasi, Assistant Prosecutor General.

Date of hearing : 25.04.2022.

Date of Order : 25.04.2022.

ORDER.

MUHAMMAD SALEEM JESSAR, J.- Applicants Khamiso son of Ali Hassan Bhatti, Rahib Ali son of Mohammad Hayat Malik, Talib Hussain son of Mansab Ali Wagho and Arshad son of Mir Ahsan Wagho, seek their release on bail in Crime No.22 of 2022, registered at Police Station Civil Lines, Jacobabad, for offence under Sections 4, 8(i) S.P.P.M.S. Sale and Use of Gutka Mainpuri Act, 2019, PPC, after their bail plea has been declined by the learned Sessions Judge, Jacobabad vide order dated 29.03.2022.

2. Learned Counsel for the applicants submits that the applicants are innocent and they have been implicated falsely in this case by the police by foisting the alleged recovery against them. He further submits that no independent person was associated and/or cited and examined as witness of the alleged incident, despite the fact that the alleged recovery was made on the basis of spy information in advance at busy place in broad daylight. He further submits that the case against applicant requires further enquiry.

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3. Learned Asst. P.G. submits that the Provincial Government has enacted new law, by which the punishment for the offence of transportation and keeping in possession the 'gutkha' has been provided as 03 years imprisonment, hence he does not oppose the bail application.

4. Admittedly, sections applied in the FIR are not falling under the prohibitory clause of Section 497, Cr.P.C. The alleged recovery was made on the basis of spy information, which was received in advance, but even then no independent person was associated and/or cited and examined to witness the alleged recovery. Accordingly and in view of no objection extended by the learned Asst. P.G., case of applicants requires further enquiry within the meaning of sub-section (2) of Section 497, Cr.P.C. Hence, this bail application is hereby allowed. Applicants Khamiso Bhatti, Rahib Ali Malik, Talib Hussain Wagho and Arshad Wagho, shall be released on bail on their furnishing solvent surety in the sum of Rs.50,000/- each and P.R bonds in the like amount to the satisfaction of learned trial Court.

JUDGEMENT

Qazi Tahir PA/