

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Application No.256 of 2026.

Applicants : Muhammad Jan and Kifayatullah through Mr.Ghulam Rasool Rind, Advocate.

Respondent : The State through Mr. Muntazir Mehdi, Prosecutor General Sindh a/w Ms.Rubina Qadir, Addl. P.G. Sindh.

Date of hearing : 16.03.2026.

Date of order : 16.03.2026.

ORDER.

TASNEEM SULTANA, J.:-Through this Criminal Bail Application, the applicants Muhammad Jan and Kifayatullah seek post-arrest bail arising out of Crime No.33 of 2026 registered at P.S. Gadap City, Karachi, for the offence under Sections 4/8(i)(A) of the Gutka/Mawa Act, 2019. Having been rejected their earlier Cr. Bail Application No. 406 of 2026 passed by learned Additional Sessions Judge-III, Malir Karachi vide order dated 22.01.2026, hence this application for the same concession.

2. Brief facts of the prosecution case are that on 14.01.2026, the complainant SI Rafique Ahmed along with police staff, while on patrol near Northern Bypass, Toll Plaza, Karachi, allegedly received spy information regarding a white Suzuki Swift carrying "Mainpuri" and, acting upon such information, set up a Nakabandi and intercepted the said vehicle, where the driver disclosed his name as Muhammad Jan while the front seat passenger disclosed his name as Kifayatullah; upon search of the vehicle, it is alleged that 15 plastic bags were recovered from the rear seat and 15 plastic bags from the trunk, each containing prepared Mainpuri weighing 0.5 kg per bag with total weight stated to be 195 kilograms, whereafter the accused were arrested, samples were drawn, and the case was registered and investigation was entrusted to the SIO.

3. Learned counsel for the applicants contended that the applicants are innocent, have been falsely implicated, no independent witness has been associated, alleged offence does not fall within prohibitory clause of Section 497 Cr.P.C., and the complainant was not authorized under the relevant law. It was further argued that no previous criminal record is attributed to the applicants and they are ready to furnish surety.

4. Conversely, learned P.G Sindh opposed the bail and submitted that huge quantity of contraband has been recovered from the possession of the

applicants, they were apprehended at the spot, and there is sufficient material connecting them with the commission of offence.

5. Heard. Record perused.

6. It appears that the applicants have been nominated in the FIR with specific allegations and were apprehended at the spot. The alleged recovery has been effected from the vehicle in their possession, which prima facie connects them with the commission of the offence. The quantity of contraband allegedly recovered is substantial, which by itself rules out the possibility of false implication or foisting of such huge quantity by the police officials without any motive. Furthermore, no mala fide or ulterior motive has been alleged against the police officials, and sufficient incriminating material is available on record against the applicants at this stage.

7. So far as the contention of learned counsel for the applicants that the alleged offence does not fall within the prohibitory clause of Section 497, Cr.P.C. and that grant of bail is a rule and refusal is an exception is concerned, it is correct that the alleged offence does not fall within the prohibitory clause and is punishable up to three years R.I. However, the legislature has intentionally kept the offence as non-bailable and it has consistently been held by the superior Courts that grant of bail in such cases is not a matter of right but a concession. Reliance in this regard may be placed on the case of ***Shameel Ahmed Vs. The State (2009 SCMR 174)*** wherein the Hon'ble Supreme Court of Pakistan has held that grant of bail in cases not falling within the prohibitory clause is not a rule of universal application and each case is to be decided on its own facts and circumstances. Similarly, in ***Mehmood Siddique Vs. Imtiaz Begum (2002 SCMR 442)*** it has been held that none can claim bail as of right in non-bailable offences even though the same do not fall within the prohibitory clause.

8. In the circumstances, the applicants have failed to make out a case for grant of post-arrest bail. Resultantly, the bail application is dismissed. These are reasons of my short order dated 16.3.2026.

9. Observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE