

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1380 of 2026

a/w

Criminal Bail Application No.1431 of 2026

Applicant : Syed Zain ul Abideen S/o. Farhan Ali
[in Cr.B.A No.1380/2026] Through Ms. Lubna A. Abbasi,
advocate

Applicant : Saeed Rehmant S/o. Din Shah
[in Cr.B.A No.1431/2026] Through Mr. Ismail Shah, advocate

The State : Mr. Muhammad Mohsin, Assistant
Prosecutor General, Sindh

Date of hearing : 11.06.2026.

Date of Order : 11.06.2026.

ORDER

Jan Ali Junejo, J:-- Through this common order, I intend to decide the above captioned bail applications, as they arise out of same incident as well as common impugned order dated 05.05.2026 passed by the learned Sessions Judge, Karachi East.

2. Through these bail applications, applicants/accused persons seek post arrest bail in Crimes No.484/2026 under Section 4/8(i) of Mawa Gutka Act, 2019, registered at police station KIA, Karachi.

3. Briefly stated, the prosecution story is that on 25.04.2026 at about 1600 hours, SIP Muhammad Tariq along with his police staff, while on patrol duty vide IR No.PS.KIA/76-2026 dated 08.01.2026 received spy information that three persons were standing near Hesco Petrol Pump, Chapra Hotel, Sector-25, Bilal Chowrangi, with a large quantity of injurious-to-health items and other goods loaded on a handcart, waiting for a vehicle to transport the same. Acting upon such information, the police party, along with motorcycle patrol staff comprising HC Sanam Iqbal No.8990, PC Dilawar No.47657 and PC Prince No.47607, reached the pointed place at

about 1600 hours and found three persons standing beside a handcart loaded with goods. On seeing the police, the suspects attempted to flee; however, two of them were apprehended while one managed to escape. The arrested persons disclosed their names as Syed Rehmat son of Din Shah and Syed Zain-ul-Abideen son of Syed Farhan Ali, whereas the absconding accused was identified as Wali Muhammad son of Masti Khan. PC Muhammad Anwar and PC Naveed Khan were appointed as mashirs of the search. Nothing incriminating was recovered from the personal search of Syed Rehmat, whereas from Syed Zain-ul-Abideen, cash amounting to Rs.1,900/-, one blue-coloured Techno mobile phone, one smart watch and two cigarette lighters were recovered. Upon checking the goods loaded on the handcart in connection with IR No.PS.KIA/76-2026 dated 08.01.2026, the police allegedly recovered 06 digital scales, 03 large digital scales, 25 kg dry betel nut, 17 kg chemical powder, 163 kg wet betel nut, 14 kg prepared betel nut in tubs, packets of Neem Silvarti Patti, 06 packets of Pakiza Tobacco (5 kg), 06 packets of Shehzadi Raj Patti, 04 packets and eight sachets of Najma Pakiza Patti, 10 sachets of Shehzadi Patti, 02 small brown plastic bottles containing chemicals, Gillani Malai Masala 1½ packets, 02 kg loose tobacco packed in three small bags, 11 kg gutka/mawa injurious to health, one iron ladle, one iron stirrer, one large strainer, 14 empty yellow buckets, one empty white bucket, one empty blue bucket, 13 empty small plastic baskets, 05 empty plastic bags and 06 empty small tubs. The accused allegedly disclosed that they were waiting for a vehicle to transport the aforesaid injurious-to-health items. Consequently, the recovered items were seized, the accused persons were arrested under Sections 4 and 8-A of the Injurious to Health Act, and a case was registered against the arrested as well as the absconding accused. Thereafter, the case property was deposited at the police station and investigation was commenced in accordance with law, hence, this FIR.

4. Ms. Lubna A. Abbasi advocate for the applicant in Cr. B.A No. 1380/2026 contended that the applicant is innocent and has been

falsely implicated in the present case due to mala fide intentions of the police, while the prosecution story is concocted, stage-managed and based on procedural irregularities. She further contends that the applicant was unlawfully picked up from his residence in Korangi by Rangers personnel and later handed over to the KIA Police, whereas his alleged arrest from the place of incident is a fabricated story to justify illegal detention. She also argues that there is a jurisdictional defect in the prosecution case, as no plausible explanation has been furnished regarding the applicant's presence at the alleged spot, particularly when he is a rickshaw driver by profession. Learned counsel submits that the alleged recovery has been foisted upon the applicant and that the prosecution has failed to establish any sale, purchase or transaction of gutka/mawa, which constitutes an essential ingredient of the offence. She further contends that the recovered articles mainly comprise raw materials and industrial items, which by themselves do not constitute a prohibited finished product under the relevant law. It is further argued that the alleged offences do not fall within the prohibitory clause of Section 497 Cr.P.C.; therefore, grant of bail is a rule and refusal an exception. Learned counsel also submits that the case falls within the ambit of further inquiry under Section 497(2) Cr.P.C. due to serious doubts regarding the manner of arrest and recovery. He maintains that the applicant is a previous non-convict, has no criminal record, is a permanent resident of Karachi, is neither a hardened criminal nor an absconder, and is the sole breadwinner of his family. It is further contended that the investigation has already been completed and the applicant is no longer required for any recovery or interrogation; therefore, his continued incarceration would amount to punishment before conviction. Lastly, she submits that the learned courts below failed to properly appreciate the facts and law while dismissing the applicant's earlier bail applications and, therefore, the impugned order is liable to be set aside. She accordingly prays for grant of post-arrest bail to the applicant.

5. Mr. Ismail Shah advocate for the applicant in Cr. B. A No. 1431/2026 contended that applicant is innocent, a law-abiding

citizen with no criminal antecedents, and has been falsely implicated in the present case by the police with mala fide intentions. He contends that the alleged offence under Sections 4/8(1) of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019 falls outside the prohibitory clause of Section 497(1), Cr.P.C., entitling the applicant to the concession of bail. He further argues that the prosecution case is based solely upon an uncorroborated intelligence report and is devoid of any independent complainant, purchaser, victim, or private witness. Learned counsel submits that the applicant was subjected to an unlawful demand of Rs.500,000/- by the police officials and, upon his refusal, the alleged case property was foisted upon him, thereby demonstrating mala fide on the part of the prosecution. He further contends that the alleged recovery proceedings are doubtful as all mashirs are police officials and no independent witness was associated despite the recovery having allegedly been effected from a public place situated in a thickly populated area. It is also argued that the case property was not physically produced before the learned Magistrate during remand proceedings and only photographs were shown, casting serious doubt upon the genuineness and integrity of the alleged recovery. Learned counsel maintains that no recovery was effected from the personal possession of the applicant and that the entire case rests upon the statements of interested police witnesses without independent corroboration. He further submits that the case, at the very least, calls for further inquiry within the meaning of Section 497(2), Cr.P.C. owing to the material contradictions and suspicious circumstances surrounding the prosecution story. He also argues that the applicant has remained behind bars since his arrest and his continued detention in a non-prohibitory offence would amount to punishment before conviction, particularly when criminal trials ordinarily take considerable time to conclude. Lastly, he contends that the learned courts below failed to properly appreciate the facts and law while dismissing the applicant's earlier bail plea and that the applicant is ready and willing to furnish solvent surety to the

satisfaction of this Court; therefore, he prays for grant of post-arrest bail.

6. Conversely, the learned Assistant Prosecutor General opposes the bail applications, contending that the Applicants were apprehended redhanded with huge quantity of Gutka/Mawa and raw materials, and the recovery was duly documented in accordance with law. He argues that such offences pose a serious threat to public health and granting bail in such cases would encourage habitual violators and undermine the enforcement of the prohibition law. He further submits that sufficient material is available on record to connect the Applicant with the commission of the alleged offence. Lastly, he prays for dismissal of the bail applications.

7. I have heard the arguments advanced by the learned counsels for the Applicants and the learned Assistant Prosecutor General for the State, and have examined the material available on record with a tentative assessment, as permissible at this stage of bail. Despite the recovery allegedly taking place in a public locality, no private witness was joined. The prosecution relies entirely upon official witnesses who are both complainant and seizing party.

8. Section 8(1) of the Act of 2019, under which the applicant has been booked, provides that whoever contravenes the provisions of Sections 3, 4, 5, 6, and 7 of the Act of 2019 shall be punishable with imprisonment that 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 Rs.200,000/-.

9. To invoke the provisions of Sections 3, 4, and/or 5 *ibid*, the mixture or substance must fall within the following definitions of "derivative" and "gutka and manpuri", mentioned in clauses (vi) and (viii), respectively, of Section 2 of the Act of 2019:

"(vi) "derivative" means any mixture under any name viz. panparag, gutka, or such other mixture which is prepared or obtained by any series of operations from the ingredients as given in clause (vii)." "(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 ;
(b) any substance prepared for human consumption and is posing a serious threat to the health of people and includes such substances as the Government may, by notification in the official Gazette, declare to be such substances."*

10. Perusal of the above-mentioned provisions of the Act of 2019 shows that to invoke the provisions of Sections 3, 4, and/or 5 *ibid*, it is necessary for the prosecution to show that there was a "mixture" or "substance", as defined in clauses (vi) and (viii) of Section 2 of the Act of 2019, and the accused was involved in the production, preparation, manufacture, sale, distribution, delivery, import, export, transportation and/or dispatch thereof.

11. The question of whether or not the above-mentioned items allegedly recovered from the applicants/accused were to be used as the raw material for preparing the mixture of any of the derivatives or substances defined in the Act of 2019, requires further inquiry in my opinion. It will be for the learned trial Court to decide whether possession, transportation, sale, etc. of such items/raw material is an offense under the Act of 2019 or not.

12. The offense alleged against the applicants does not fall within the prohibitory clause of Section 497 Cr.P.C. Besides alleged recovery was affected from the populated area and the complainant has advance information regarding the presence of the applicant at the pointed place but no private person was associated as a witness or mashir either from the place of incident or from the place of information.

13. Because of the above factual and legal position, the applicant is found entitled to the relief of bail under to Section 497(2) Cr.P.C, including the reasons recorded hereinabove.

14. For the reasons discussed above, the applicants have succeeded in making out a case for the concession of post-arrest bail. Accordingly, these Criminal Bail Applications are allowed, and the applicants, namely *Syed Zain ul Abideen son of Farhan Ali [in Cr. B.A No.1380/2026]* and *Saeed Rehmat son of Din Shah [in Cr. B.A No.1431/2026]* are admitted to post-arrest bail subject to their furnishing surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) each and a P.R. bond in the like amount to the satisfaction of the learned trial Court. The observations made herein are tentative in nature and confined solely to the purpose of this Order. They shall not prejudice or influence the learned trial Court while deciding the case on merits.

These are the detailed reasons for the short order dated 11.06.2026.

JUDGE