

**IN THE HIGH COURT OF SINDH CIRCUIT COURT AT
MIRPURKHAS**

Criminal Bail Application No.S-335 of 2026

Applicant: Muhammad Usman @ Ghani s/o Allahdad Bhayo.
Through Mr. Sikandar Ali Kolachi, Advocate.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of hearing: 24.07.2026

Date of Order: 24.07.2026

O R D E R

Khalid Hussain Shahani, J.— By means of the instant application, the applicant, Muhammad Usman @ Ghani, seeks his enlargement on post-arrest bail in Crime No. 148 of 2026, for offence under Sections 4, 5 and 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019, at Police Station Umerkot City. An earlier attempt for the same relief was declined by the learned Sessions Judge, Umerkot, vide order dated 18.06.2026.

2. The genesis of the prosecution's case, as reflected in the record, is that on 09.06.2026, at approximately 1600 hours, during a routine snap-checking exercise conducted at the Shah Murad Shah Police Picket on Rataunr Road, the applicant's vehicle was intercepted and he was apprehended. A search of the vehicle is stated to have yielded two sacks: the first containing fifty packets of Z Gold Gutka Supari, each comprising 110 pouches (aggregating 5,500 pouches), of which four pouches were sealed for chemical analysis; and the second containing twenty-six packets of Aadab Gutka Supari, each comprising 100

pouches (aggregating 2,600 pouches), of which two pouches were similarly sealed. The residual case property was thereafter sealed, a mashirnama of arrest and recovery prepared in the presence of police officials, and the F.I.R. formally recorded upon the applicant's production at the police station.

3. Learned counsel for the applicant submitted, with considerable emphasis, that no incriminating article was recovered from the applicant's personal search; that the F.I.R. was lodged after an unexplained delay of one hour and thirty minutes notwithstanding the proximate location of the police station at a distance of merely 7–8 kilometers; that no independent mashir was associated with the recovery despite its having allegedly occurred in a densely populated locality, thereby rendering the prosecution version dependent solely upon police testimony; that the investigating agency, despite ready access to recording technology, omitted to document the recovery proceedings on video, an omission that further impairs the credibility of the prosecution narrative; and that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., such that bail, being the rule rather than the exception, ought to be extended to the applicant. Learned counsel concluded that the applicant's continued incarceration serves no investigative utility and prayed accordingly for the grant of post-arrest bail.

4. Learned Deputy Prosecutor General, appearing on behalf of the State, resisted the application with equal vigour, contending that the gravity of the accusation and the modus operandi attributed to the applicant render him undeserving of the concession sought.

5. This Court has heard learned counsel for the respective parties at length and examined the record with their able assistance. At this tentative stage, it emerges that no contraband was retrieved from the applicant's person, the recovery having been effected from the vehicle rather than his personal custody, a circumstance that, *prima facie*, attenuates the element of exclusive and conscious possession and calls for closer judicial scrutiny at trial. It is further observed that, notwithstanding the occurrence having allegedly taken place on a public thoroughfare characterised by heavy vehicular traffic, no independent witness was associated with the recovery, the prosecution's case resting entirely upon the testimony of police functionaries subordinate to the complainant. While such testimony cannot be discounted merely on account of official status, the absence of independent corroboration, in the peculiar facts of the present case, constitutes a circumstance falling squarely within the contemplation of Section 497(2), Cr.P.C., warranting further inquiry.

6. Of comparable significance is the unexplained delay of one hour and thirty minutes in the recording of the F.I.R., a delay for which no satisfactory explanation has been proffered notwithstanding the negligible distance separating the place of occurrence from the police station. This infirmity is compounded by the admitted failure to video-record the recovery proceedings, a facility ordinarily accessible to the investigating agency in the present era of technological advancement. The unexplained non-utilisation of such means further erodes the prosecutorial narrative and lends credence to the applicant's plea of further inquiry.

7. It bears emphasis that the offence with which the applicant stands charged does not attract the prohibitory clause of Section 497, Cr.P.C. It is by now axiomatic that in offences falling outside the prohibitory clause, the grant of bail constitutes the rule, and its denial the exception, to be invoked only upon a demonstration of exceptional circumstances by the prosecution. No such circumstance has been placed before this Court so as to justify a departure from the general rule. The applicant is, in the premises, no longer required for the purposes of investigation, and his continued detention would serve no discernible object, the prosecution having already secured such evidence as it proposes to rely upon.

8. For the reasons recorded above, the instant bail application is allowed, and the applicant, Muhammad Usman @ Ghani, is admitted to post-arrest bail subject to his furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand only) together with a P.R. bond in the like amount, to the satisfaction of the learned trial Court.

9. It is clarified, lest any doubt arise, that the observations contained herein are of a tentative character and shall not be construed as an expression of opinion on the merits of the case, the determination whereof rests exclusively with the learned trial Court, to be arrived at uninfluenced by anything stated above.

JUDGE