

IN THE HIGH COURT OF SINDH CIRCUIT COURT AT MIRPURKHAS

Criminal Bail Application No. S-411 of 2026

Applicants: 1. Rehmat Fareed s/o Haji Rasool Bux, Ahmed Raza S/o Iftekhhar Ali, Shahid Akbar s/o Muhammad Akbar, Muhammad Ramzan s/o Surat Khan and Muhammad Azhar s/o Ghulam Murtaza through Mr. Abdul Hassan Noondani advocate.

Respondent: The state through,
Mr. Neel Parkash, D.P.G.

Date of hearing: 31.07.2026

Date of Order: 31.07.2026

O R D E R

Khalid Hussain Shahani, J.— Applicants Rehmat Fareed, Ahmed Raza, Shahid Akbar, Muhammad Ramzan and Muhammad Azhar, seek post-arrest bail in Crime No. 91 of 2026, registered under Sections 4 and 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019, at Police Station Satellite Town, Mirpurkhas. A prior attempt to secure identical relief before the learned Sessions Judge-I, Mirpurkhas, met with rejection vide order dated 16.07.2026.

2. The prosecution's narrative, as gleaned from the record, is that on 05.07.2026, at about 1600 hours, the complainant, accompanied by police personnel, intercepted a Prado and an Alto and apprehended the accused persons. From the first vehicle, ten white sacks were recovered, comprising 400 packets of Safina gutka, each packet containing 110 sachets, aggregating to 44,000 sachets. From the second vehicle, six white sacks yielding 200 packets, similarly comprising 110 sachets each, aggregating to 22,000 sachets, were seized. A memo of arrest and recovery was prepared, samples were

drawn for chemical analysis, the case property was deposited at the police station, and the instant F.I.R. was consequently registered.

3. Learned counsel for the applicants, addressing the Court with considerable force and precision, submitted that no incriminating article was recovered from the personal search of the applicants; that the F.I.R. was lodged after an unexplained and unjustifiable delay of one hour and thirty minutes, notwithstanding the police station's proximity of merely three to four kilometers from the site of occurrence; that no independent *mashir* was associated with the recovery despite the alleged occurrence in a densely populated locale, thereby rendering the prosecution case wholly dependent upon interested police testimony; that the investigating agency, though possessed of ready access to video-recording technology, made no effort to document the recovery proceedings, an omission that materially impairs the sanctity of the prosecution's account; and that the offence charged falls outside the prohibitory clause of Section 497, Cr.P.C., such that bail, being the rule and not the exception, ought to be extended as a matter of right rather than favor. Learned counsel concluded, with justified emphasis, that the applicants' continued incarceration subserves no investigative purpose whatsoever and prayed accordingly for the grant of the concession sought.

4. Learned D.P.G., appearing for the State, resisted the application with equal tenacity, urging that the gravity of the accusation and the modus operandi attributed to the applicants disentitle them to the indulgence prayed for.

5. This Court has given the matter its anxious consideration, having heard learned counsel for the respective parties at considerable length

and perused the record with their able assistance. At this tentative juncture, it is apparent that no contraband whatsoever was retrieved from the person of any applicant, the alleged recovery having been affected from the vehicles rather than from their exclusive and conscious possession—a circumstance that, *prima facie*, materially dilutes the prosecution's case and merits closer scrutiny at trial. It is further noted that, notwithstanding the occurrence having purportedly transpired upon a public thoroughfare marked by heavy vehicular movement, no independent witness was associated with the recovery proceedings, the prosecution's case resting entirely upon the testimony of police officials subordinate to the complainant. While such testimony is not to be discarded merely by reason of official affiliation, the absence of independent corroboration, in the peculiar facts and circumstances of this case, falls squarely within the contemplation of Section 497(2), Cr.P.C., and warrants further inquiry into the applicants' guilt.

6. Equally telling is the unexplained delay of one hour and thirty minutes in the recording of the F.I.R., a delay for which no plausible justification has been furnished, particularly given the negligible distance separating the place of occurrence from the police station. This infirmity is further compounded by the admitted failure to video-record the recovery proceedings, a facility ordinarily within the easy reach of the investigating agency in this age of technological advancement. Such unexplained non-utilization of available means casts a discernible shadow upon the prosecutorial narrative and reinforces the applicants' entitlement to the benefit of further inquiry.

7. It merits particular emphasis that the offence with which the applicants stand charged does not attract the rigors of the prohibitory clause contained in Section 497, Cr.P.C. It is by now well settled that in offences falling outside the prohibitory clause, the grant of bail is the rule, and its refusal the exception, an exception to be invoked only where the prosecution demonstrates circumstances of an exceptional character. No such circumstance has been brought to the notice of this Court as would justify a departure from the settled rule. The applicants are no longer required for the purposes of further investigation, and their continued detention would serve no discernible or legitimate object, the prosecution having already collected such evidence as it proposes to place before the trial Court.

8. For the foregoing reasons, the instant bail application is allowed, and the applicants are admitted to post-arrest bail, subject to each 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, so that no doubt may linger, that the observations made herein are strictly tentative in nature and shall not be read as an expression of opinion touching the merits of the case, the determination whereof rests exclusively within the domain of the learned trial Court, to be arrived at uninfluenced by anything stated hereinabove.

JUDGE

Chander Kumar