THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

Criminal Bail Application No.S1226 of 2025

Applicants	:	Ghulam Rasool s/o Khair Muhammad Dad Muhammad s/o Faqeer Muhammad (in custody) through Shahnawaz Brohi, Advocate.
State	:	Through Khalid Hussain Lakno, D.P.G. for State
Dated of hearing	:	24.11.2025.
Date of Order	:	24.11.2025.
Date of Reasons	:	21.10.2026

O R D E R

JAWAD AKBAR SARWANA, J:- Applicant/accused Ghulam Rasool s/o Khair Muhammad (applicant/accused no.1) and Dad Muhammad s/o Faqeer Muhammad (applicant/accused no.2), seek post-arrest bail in Crime No.142 of 2025, registered under Section 8 of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act ("Gutka & Manpuri, Act"), 2019 at PS Bola Khan after their post-arrest bail was denied vide order dated 26.09.2025 passed by the IInd Additional Sessions Judge Kotri in Criminal Bail Application No.1150 of 2025.

2. I have heard the applicant/accused Counsel, the Additional Prosecutor General, Sindh and have perused the record, and my observations are as under:-

3. The facts of background of the matter are set out in the FIR and, for the sake of brevity, are not reproduced herein and are reiterated herein ad seriatim.

4. The record reflects that the alleged recovery was effected within a populated area, yet no private person was associated as a witness to the arrest and recovery proceedings, and all the witnesses are police officials. Therefore, there appears to be little apprehension that the accused tampered with the evidence. The challan has been submitted before the Court having jurisdiction, and the investigation of the case is complete,

including the submission of the Government Laboratory chemical report. Therefore, custody of the two applicants/accused is not required for any further investigation or recovery.

5. The offence under section 8 of the Gutka Mawa Act, 2019, carries punishment with imprisonment which may extend to three years but shall not be less than one year; thus, the offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C. In such cases, the grant of bail is a rule, whereas refusal is an exception. According to the Supreme Court in the *Mohammad Imran* case[1] the grounds of denial of bail are described as: (a) the likelihood of the applicants/accused abscondence to escape trial; (b) his tampering with the prosecution evidence, or influencing the prosecution witnesses to obstruct the course of justice, or (c) his repeating the offence, keeping in view his previous criminal record or the desperate manner in which he has prima facie acted in the commission of the offence alleged. The prosecution has to show if the case of the applicants/accused falls within any of these exceptions based on the material available on the record.

6. In the case at hand, the most compelling argument put forward by the prosecution in terms of the Supreme Court's dicta in the *Muhammad Imran* case, supra, is the previous criminal record of the two applicants/accused. While the learned APG has identified the previous criminal record of the two accused, he has not been able to satisfy the Court concerning either the outcome of the past FIRs or the current status of the FIRs It would be unfair to continue keeping the applicants/accused in custody for another month or so, waiting for the required information. The bench cannot wait endlessly for prosecution

7. Without prejudice to the above, it is apparent that the two applicants accused have a lot to answer in terms of their past conduct, which will no doubt come into play during the trial side and the information which may not be available before this bench will be provided to the trial Court,

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[1] Supreme Court of Pakistan Order dated 05.08.2021, *Muhammad Imran* (Crl. P.860-L/2021).

promptly, for consideration of the trial and, if the accused/applicant are found guilty then the previous criminal record, may well influence the sentencing and/or penalty. At this stage, a deeper appreciation of the evidence is not permissible while deciding the bail application, and the same is to be decided tentatively based on the material available on record. Lastly, I must also consider the obiter remarks of the Supreme Court in *Muhammad Tanveer v. The State and Another*, PLD 2017 SC 733, cited by my brother in the High Court of Sindh, Circuit Court, Larkana, Cr. Bail Appln. No.S-113 of 2025, *Ayaz Hussain Siyal v. The State*, Order dated 17.03.2025.

8. Given the above, from the tentative assessment of the record, the applicant/accused has made out a case for further inquiry as envisaged under Section 497(2) CrPC.

9. In view of the above, the instant bail application was allowed on 24.11.2025 to both the applicants/accused subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Lac) each and P.R. bond in the like amount to the satisfaction of the Court. The above are the reasons for the short order.

10. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Tufail