

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.S-348 of 2025

Applicant: Bashir Ahmed S/o Muhammad Ibrahim.
Through Mr. Agha Iftikhar Hussain Tareen,
Advocate.

Respondent: The State.
Through Mr. Dhani Bakhsh Mari, A.P.G.

Date of Hearing: 04.12.2025

Date of Order: 04.12.2025

ORDER

Shamsuddin Abbasi, J-: The applicant Bashir Ahmed seeks post-arrest bail in Crime No.363 of 2025, under Section 5-8(i) Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka Act, 2019, registered at Police Station Shahdadpur after dismissal of his bail plea by the learned Additional Sessions Judge, Shahdadpur vide order dated 10.11.2025.

2. It is the case of the prosecution that on 24.10.2025, complainant ASI Ali Nawaz Babar along with his sub-ordinate staff apprehended the applicant/accused Bashir Ahmed and recovered 150 pouches/puries of Safeena Gutka from his possession, which are prohibitory under Section 5-8(i) Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka Act, 2019.

3. Learned counsel for the applicant has mainly contended that the place of incident is thickly populated area, but the complainant has failed to associate any private person to witness the alleged arrest and recovery which is clear violation of section 103 Cr.P.C; that nothing was recovered from the possession of the applicant and he has been falsely implicated by the police due to non-payment of illegal bribe; that alleged offence does not fall within the ambit of prohibitory clause of section 497(1) Cr.P.C; that the applicant is confined in jail and no more required for the purpose of investigation. Lastly he prayed for the grant of bail.

4. Learned A.P.G for the State has opposed for grant of bail to the applicant on the ground that sufficient quantity of narcotics/Gutka was recovered from the personal possession of the applicant and he is nominated in the F.I.R, as such, he is not entitled for grant of bail.

5. Heard learned counsel for the applicant, learned A.P.G for the State and perused the record.

6. No doubt, the alleged offence does not fall within the ambit of the prohibitory clause of Section 497 Cr.P.C., and in such like cases grant of bail is a rule and refusal is an exception, as held by the Honourable Supreme Court in Muhammad Tanveer v. The State **PLD 2017 SC 733**. The record reflects that despite thickly populated area, no private person was associated to witness the recovery of prohibited articles and arrest or recovery, which prima facie, case calls for further enquiry in terms of section 497(2) Cr.P.C. The case has been challaned and applicant is no more required for further investigation. No purpose would be served out to keep him incarceration.

7. In view of the above, the applicant is admitted on post arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a P.R. Bond in the like amount to the satisfaction of learned trial court.

8. The observations made here-in-above are tentative in nature and would not prejudice the case of either party at the trial.

The application stands disposed of.

JUDGE