

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-683 of 2026
[Aamir Ali and another vs. The State]

Applicants by: Zafar Ali Leghari advocate
State by: Mr. Khalid Hussain Lakho D.P.G
Date of hearing 22.06.2026
Date of Order 22.06.2026

ORDER

TASNEEM SULTANA, J: Through the instant Criminal Bail Application, applicants Aamir Ali and Muhammad Usman seek post-arrest bail in Crime No.29 of 2026, registered at Police Station Punhal Khan Chandio, District Shaheed Benazirabad, for offences under Sections 4, 5 and 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019. Their earlier bail application No.1204 of 2026 was dismissed by the learned Additional Sessions Judge-VI, Sakrand vide order dated 20.05.2026; hence this bail application.

2. Brief facts of the prosecution case are that on 30.04.2026, during snap checking at Nawabshah-Sakrand Road near Behraj Mori Stop, a police party of P.S. Punhal Khan Chandio signaled a white car to stop. One occupant of the car managed to flee, whereas the present applicants were apprehended at the spot. On search of the said vehicle, 14 sacks of Z-21 Gutka Supari, weighing 221,200 grams, were allegedly recovered, whereafter the present FIR was lodged.

3. Learned counsel for the applicants contended that the applicants have been falsely implicated in this case; that the alleged recovery has been foisted upon them; that the FIR was lodged with unexplained delay; that all the witnesses are police officials and, despite availability of private persons at the place of recovery, no independent mashir was associated; that the alleged offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; that the applicants are no more required for further investigation and are ready to face trial. He lastly prayed that the applicants may be admitted to post-arrest bail.

4. Conversely, learned Deputy Prosecutor General opposed the bail application and contended that the applicants were apprehended at the spot from the vehicle carrying a huge quantity of Gutka/Mainpuri; that the alleged offence is serious in nature, as it directly concerns public health and society at large; that the applicants are, therefore, not entitled to the

concession of bail.

5. Heard and record perused.

6. Perusal of record reflects that the applicants were allegedly apprehended from a vehicle from which 14 sacks of Z-21 Gutka Supari, weighing 221,200 grams, were shown to have been recovered. However, upon a specific query raised by this Court, learned Deputy Prosecutor General candidly conceded that although the samples were forwarded for chemical analysis, the requisite Chemical Examiner's/Forensic report has not been received so far. In cases involving recovery of a prohibited substance, the report of the Chemical Examiner assumes material significance for determining the nature and identity of the recovered article. In the absence of such report, at this stage, the prosecution case requires further probe.

7. The importance of scientific/chemical examination report for establishing the nature of recovered contraband has been emphasized by the Honourable Supreme Court in *The State v. Imam Bakhsh* (2018 SCMR 2039) and *State through Regional Director ANF v. Muhammad Ahmed* (2022 SCMR 1381). Although each case is to be examined on its own facts, non-availability of such report at bail stage cannot be lightly ignored, particularly when the very nature of the recovered substance is yet to be scientifically confirmed.

8. It is further borne out from the record that the alleged recovery was effected at a public place, yet no independent mashir from the locality was associated. Besides, the offence under Section 8(i) of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 does not fall within the prohibitory clause of Section 497, Cr.P.C. These circumstances, when examined cumulatively, make the case one of further inquiry within the meaning of Section 497(2), Cr.P.C. In offences falling outside the prohibitory clause, grant of bail is a rule and refusal is an exception. Reliance may be placed upon *Tariq Bashir and 5 others v. The State* (PLD 1995 SC 34) and *Muhammad Tanvir and another v. The State and another* (PLD 2017 SC 733).

9. In view of the above facts and circumstances, the applicants have made out a case for further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the instant bail application was allowed and the applicants Aamir Ali son of Mir Hassan Brohi and Muhammad Usman son of Muhammad Ishaque Jatoi were admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.100,000/- each and P.R. bond in the like amount to the satisfaction of learned trial Court vide short

Order dated 22.06.2026 and these are the reasons thereof.

10. Needless to observe that the observations made hereinabove are tentative in nature and shall not prejudice the learned trial Court at the time of trial.

JUDGE

Sajad Ali Jassar