

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-353 of 2026

Applicant: Bilal son of Usman.
Through Mr. Farhan Ahmed Bozdar, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G.

Date of hearing: 16.07.2026

Date of Order: 16.07.2026

ORDER

Khalid Hussain Shahani, J.— Through the instant application, the applicant, Bilal, seeks enlargement on post-arrest bail arising out of Crime No. 179 of 2026, registered under Section 5-8(i) of the Gutka Mainpuri Act, 2019, at Police Station Shahdadpur. It is conceded on both sides that an earlier application seeking parity was declined by the learned Additional Sessions Judge, Shahdadpur, vide order dated 18.06.2026.

2. The case set up by the prosecution, as discernible from the record, is that on 07.06.2026, at about 2200 hours, in the vicinity of Noor Abad Colony, the applicant was apprehended in the company of two co-accused. No incriminating article was recovered from his person; however, from the place of occurrence, 100 pouches of purported Mainpuri Gutka, 22 sacks of raw material (choora), each weighing 50 kilograms, and one unregistered black 125cc motorcycle were seized. The case property was thereafter sealed for forensic examination, a mashirnama of arrest and recovery was prepared in the presence of police functionaries, and the F.I.R. came to be registered upon the accused being brought to the police station.

3. Learned counsel for the applicant submitted that nothing incriminating was recovered from his client's personal search; that the F.I.R. was lodged with an unexplained delay of one hour and thirty-five minutes despite the police station being merely a kilometer away; that no independent mashir was associated with the recovery, notwithstanding the recovery having

allegedly been effected from a densely populated locality, rendering the prosecution wholly reliant upon police testimony; that no video recording of the recovery proceedings was made despite the ready availability of such technology with the investigating agency, which omission further erodes the credibility of the prosecution version; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., and consequently, bail being the rule and refusal thereof an exception, the applicant is entitled to the concession sought; and that the applicant is a taxpayer bearing NTN No. 4404519, a registered member of the Chamber of Commerce and Industry, Hyderabad, and a businessman by profession, facts sufficient to dispel any apprehension of flight or abscondence. Learned counsel lastly submitted that the report under Section 173, Cr.P.C. having already been submitted, the applicant's continued detention serves no investigative purpose.

4. Learned Deputy Prosecutor General, appearing for the State, controverted the submissions with considerable force, contending that the gravity of the accusation and the modus operandi attributed to the applicant disentitle him to the concession of bail.

5. I have heard learned counsel for the respective parties and perused the record with their assistance. At this preliminary stage, it emerges that nothing was recovered from the applicant's personal possession, the alleged contraband having been retrieved from the place of occurrence rather than his person, a circumstance which, prima facie, dilutes the element of exclusive conscious possession and warrants closer scrutiny at trial. It is further noted that despite the locality being thickly populated, no independent witness was associated with the recovery proceedings, the prosecution case resting entirely upon the testimony of police officials subordinate to the complainant. While such testimony cannot be discarded merely by reason of official status, the absence of independent corroboration, in the peculiar facts of this case, constitutes a circumstance meriting further inquiry within the contemplation of Section 497(2), Cr.P.C.

6. Equally significant is the unexplained delay of one hour and thirty-five minutes in the registration of the F.I.R., notwithstanding the negligible distance between the place of occurrence and the police station, a factor for

which the prosecution has, at this stage, offered no satisfactory explanation. Added to this is the admitted absence of any video recording of the alleged recovery proceedings, a facility ordinarily within the easy reach of the investigating agency in the present age of technological advancement, and its non-utilization, without explanation, further weakens the prosecutorial narrative and lends credence to the plea of further inquiry.

7. It is also material to observe that the offence alleged against the applicant does not attract the prohibitory clause contained in Section 497, Cr.P.C. It is well settled that in offences falling outside the prohibitory clause, grant of bail is the rule, and its refusal an exception, to be resorted to only where exceptional circumstances are demonstrated by the prosecution. No such exceptional circumstance has been brought on record in the instant case warranting departure from the general rule.

8. Furthermore, sufficient material has been placed on record to demonstrate that the applicant is a taxpayer holding an NTN, a member in good standing of the Chamber of Commerce and Industry, Hyderabad, and a practicing businessman with roots in society. These circumstances, taken cumulatively, dispel any reasonable apprehension that the applicant would abscond or misuse the concession of bail, and weigh in favour of extending him the benefit thereof.

9. It is further noted that investigation stands concluded and the report under Section 173, Cr.P.C. has already been submitted before the trial Court. The applicant is therefore no longer required for investigative purposes, and his continued incarceration would serve no discernible object, the prosecution having already secured the evidence upon which it proposes to rely.

10. For the foregoing reasons, the instant bail application is allowed, and the applicant, Bilal, is admitted to post-arrest bail subject to furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand only) and a P.R. bond in the like amount, to the satisfaction of the learned trial Court.

11. It is clarified, for the avoidance of doubt, that the observations recorded herein are tentative in nature and shall not be construed as an expression of opinion on the merits of the case, which shall be decided by the learned trial Court uninfluenced by anything stated above.

JUDGE

Adnan Ashraf Nizamani