

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Application No. S – 403 of 2020

Date	Order with signature of Judge
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For hearing of bail application

1. For orders on office objection at flag 'A'
2. For hearing of bail application
(Notice issued)

24.08.2020

Mr. Junaid Soomro Advocate for the Applicants/accused
Mr. Shafi Muhammad Mahar, DPG for the State

ORDER

Aftab Ahmed Gorar, J- Through instant Criminal Bail Application, the applicants/accused Raheem-ud-Din S/o Sultan Khan Pathan and Ahmed S/o Abdul Baqi, seek post-arrest bail in Crime No.95/2020 registered at Police Station, Naushahro Feroze, for offences punishable under Sections 269, 270, 273, 337-J P.P.C and 7/8 Ghutka Mainpuri Act-2019.

2. It is alleged that on 25.05.2020 complainant ASI Abdul Ghaffar Umrani of Police Station Naushahro Feroze along with his subordinates was on patrolling duty and on receiving spy information regarding transportation of "*Indian Ghutka*" which is injurious to the human health, in a vehicle Pagero No.BF-1245, therefore, they started keeping vigilant eye upon the passerby vehicles on the National Highway Naushahro Feroze Bye-pass; it was 0740 hours, they saw and stopped the aforesaid vehicle and on search it was found loaded with bags of "*Indian Ghutka*", whereas, the applicants/accused were found in the said vehicle, hence they were arrested at the spot and such *mashirnama* of arrest and recovery was prepared with the signatures of the police mashirs, therefore, the

present case was registered. The applicants on having been refused post-arrest bail by the Court of learned 2nd. Assistant Sessions Judge, Naushahro Feroze vide order dated 11.06.2020, hence they have preferred the instant bail application.

3. It is contended by learned counsel for the applicants/accused that the applicants/accused are innocent and have falsely been implicated in this case due to enmity; that all the Sections inserted in the F.I.R. are bailable except Section 337-J P.P.C, which is yet to be determined at the time of trial as to whether the recovered property is injurious to life or not; that no consumer is shown to have purchased said *Indian Ghutkha* from the applicants/accused as it can easily be purchased from shops and foist the same upon innocent person; that nothing has been recovered from the possession of applicants/accused but alleged recovery has been foisted upon the applicants/accused; that all the *mashirs* are police officials and no independent person has been associated to act as *mashir*, as the place of alleged recovery is a thickly populated area on the National Highway; that the applicants/accused are in jail custody since the date of their arrest and case has been challaned, no fruitful result will be served to keep the applicants/accused in jail for indefinite period, therefore, he prayed for grant of bail to the applicants/accused.

4. Learned DPG appearing for the State has opposed for grant of bail to the applicants/accused by contending that the applicants are nominated in the F.I.R and a huge quantity of "*Indian Ghutka Supari*" has been recovered from their possession, which is injurious to human lives, therefore he prayed for dismissal of instant bail application.

5. I have heard the learned counsel for the applicants/accused, learned DPG for the State and perused the record. The Sections

applied in the FIR are bailable except Section 337-J P.P.C, which is yet to be determined at the time of trial as to whether the applicants/accused were found while travelling in the vehicle which was loaded / containing the alleged intoxicants *Indian Ghutka Supari*, which is injurious to the human lives. Moreover, the police has not seen any person while purchasing the intoxicant *Ghutka/Supari* from the applicants/accused. In these circumstances the case against applicants/accused calls for further enquiry in terms of sub-section (2) of Section 497 (2) Cr.P.C. Accordingly, the instant bail application is allowed and applicants/accused are admitted to post-arrest bail subject to furnishing solvent surety in the sum of **Rs.50,000/- (Fifty thousand)** each and PR bond in the like amount to the satisfaction of learned trial Court.

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

Judge