

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1511 of 2020

Date order with signature of Judge

For hearing of bail application.

1st. January, 2021

Mr. Muhammad Hanif, Advocate for applicants.

Mr. Talib Ali Memon, APG.

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Omar Sial, J: Tahir and Muhammad Iqbal have sought post arrest bail in crime number 287 of 2020 registered under sections 269, 270, 337-J and 34 P.P.C. read with section 8 of The Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 at the Sharafi Goth police station. Earlier, their application seeking bail was dismissed by the learned Sessions Judge, Malir on 19-9-2020.

2. Brief facts of the case are that the aforementioned FIR was registered on 4-9-2020 on the complaint of the State. It was recorded therein that a police party on normal patrol duty received spy information that the applicant Tahir is running a mawa/gutka manufacturing facility. The police reached the prescribed location and saw that 10 persons were present who were unloading mawa/gutka from a trailer and also using the same for manufacturing products. 6 out of the 10 of the persons escaped whereas 4 were apprehended. 2 of the 4 apprehended persons were the applicants. Various quantities of mawa/gutka and preparation material was also seized.

3. I have heard the learned counsel for the applicants as well as the learned DPG. My observations are as follows.

4. An offence under section 8 of The Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 carries a potential sentence of up to 3 years and falls within the non-prohibitory clause of section 497 Cr.P.C. While there appears to be a crime record of the applicant Tahir, there are no convictions (to the contrary several acquittal judgments have

been filed by the learned counsel for the applicant) and the record does not reflect a case of a similar nature having been filed against him, which could have exposed him to a more stringent punishment under section 8. Offences under section 269 and 270 P.P.C. are both bailable. As regards the offence under section 337-J P.P.C. it is yet to be seen at trial whether the ingredients of that section were fulfilled and whether the substances seized will fall under the ambit of the said section.

5. It is yet to be proved as to who is the registered owner of the premises where the manufacturing facility was set up as well as who the owners were of the trailer that was being unloaded. The investigating officer has been slow in collecting this evidence.

6. Two of the accused arrested along with the 2 applicants allegedly from the spot have been discharged by the police under section 63 Cr.P.C. Prima facie the case against the applicants is also on the same footings.

7. In view of the above, the applicants are admitted to post arrest bail subject to their furnishing a solvent surety of Rs. 100,000 each and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE