ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1702 of 2020

Date

order with signature of Judge

For hearing of bail application.

30.11.2020

Khawaja Muhammad Azeem, advocate for applicants. Mr. Faheem Hussain Panhwar, DPG.

===========

<u>Omar Sial, J:</u> Karim Bux and Bashir Ali, the applicants, have sought post arrest bail in crime number 100 of 2020 registered under section 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and use of Gutka and Manipuri Act, 2019 at the Jati police station. Earlier, their application seeking bail was dismissed on 15-10-2020 by the learned Sessions Judge, Thatta.

2. The background to the case is that on 30-9-2020 a CIA police party was on a detection and prevention of crime duty when it received information that one Mohammad Ali Samejo was manufacturing gutka. The police party reached the identified spot and saw 3 persons busy in the preparation of gutka. Mohammad Ali Samejo managed to escape but the 2 applicants were arrested and the case filed against them.

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

4. The primary accusation of owning and operating a gutka manufacturing unit is on Mohammad Ali Samejo. The two applicants are accused of being present on the spot. I find it surprising that the main protagonist Samejo was also allegedly present on the spot, he managed to escape from a fully armed police party whereas his 2 workers were arrested. The malafide of the police cannot be conclusively ruled out. Further, whether the 2 applicants were aiding and abetting Samejo needs to be proved at trial.

5. Section 3 of the Act of 2019 prohibits the preparation and manufacture of gutka and manpuri, whereas section 8 of the said Act, prescribes a punishment of

1 to 3 years and a minimum fine of Rs. 200,000 for first time offenders. The learned DPG confirmed that the applicants do not have a previous crime record and thus the provision of section 8(2), which carries a more stringent punishment is not attracted in the present case. The offence with which the applicants are charged falls within the non-prohibitory clause of section 497 Cr.P.C. and there are no exceptional or extraordinary circumstances to deny the applicants bail.

6. Above are the reasons for the short order dated 26-11-2020 in terms of which the applicants were enlarged on bail.

JUDGE