

HIGH COURT OF SINDH, CIRCUIT COURT AT HYDERABAD

Cr. Bail Application No.S-1344 of 2022

[Rashid Ali versus The State]

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant	: Through Mr. Nasrullah Khaskheli advocate
State	: Through Ms. Safa Hisbani Assistant P.G
Date of hearing	: 20.01.2023
Date of Decision	: 20.01.2023

ORDER

KAUSAR SULTANA HUSSAIN, J. – Applicant Rashid Ali is seeking post arrest bail in Crime No.74 of 2022 registered under sections 5-8(i) of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale & Use of Gutka and Mainpuri Act, 2019 at Jhol police station in Sanghar. His same plea has been rejected by the learned trial Court vide Order dated 06.12.2022.

2. The allegation against the applicant/accused, as per FIR, is that on 23.11.2022 at about 1600 hours he was arrested by the patrolling police party near Mashooque Mori and from his possession 10 packets of Z-21, each packet containing 110 sachets of Ghutka, were recovered, which he was allegedly holding in a black coloured shopper.

3. Learned counsel for the applicant/accused contends that applicant is innocent and has falsely been implicated in present crime at the behest of influential persons of ruling party due to political differences; that nothing was recovered from his possession and the alleged case property has been foisted upon him; that though it is alleged that incident took place in daylight in a thickly populated area, yet no private person has been associated and that the offence alleged against the applicant is bailable in nature. He lastly prayed that applicant may be admitted to bail.

4. Learned APG, however, opposed the bail application and submits that applicant was arrested at the spot with the material which is hazardous for human use and report whereof has come in positive, as such he is not entitled for concession of bail.

5. I have heard the learned counsel for the applicant as well as learned A.P.G and also gone through the material available on record.

6. At this stage nothing has been brought on record, which may suggest that applicant is hardened criminal and/or previously convicted. The offence complained of, carries potential sentence up to three years as such same does not fall within the prohibitory clause of section 497 Cr.P.C. Keeping in view the principle settled in the case of **TARIQ BASHIR and 5 Others Versus THE STATE** reported in P.L.D 1995 SC 34, I do not find any exceptional or extraordinary circumstances to deny the applicant's bail. Further it is yet to be seen whether the seized material, though reported to be injurious to health, falls within the ambit of the Act *ibid*. As such the case of the applicant requires further inquiry. The applicant is, therefore, admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and a P.R. Bond in the like amount to the satisfaction of the learned trial Court.

7. Needless to mention here that observations made hereinabove are tentative in nature and the same may not prejudice the case of either party at trial. However, learned trial Court is directed to expedite the trial and conclude it within a period of two months from the date of receipt of this Order. It is also made clear that if at any stage applicant/accused misuses the concession of bail, the learned trial Court shall be competent to take action against him in accordance with law, without making reference to this Court.

8. Instant bail application stands disposed of accordingly.

Sajjad Ali Jessar

JUDGE