

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 1169 of 2023**

Applicant : Saud s/o. Abdul Karim, through  
Mr. Shaukat Ali Shehroze, Advocate.

Respondent : The State, through Mr. Zahoor Shah,  
Additional Prosecutor General.

-----

Date of hearing : 22.06.2023  
Date of order : 22.06.2023  
-----

**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Saud s/o. Abdul Karim seeks post-arrest bail in Crime No. 180 of 2023 registered at P.S. Soldier Bazar, Karachi under Section 8(1) of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Main Puri Act, 2019 (“**the Act**”). His earlier application for the same relief bearing No. 2737 of 2023 was dismissed by the learned Additional Sessions Judge-III, Karachi-East, vide order dated 27.05.2023.

2. As per F.I.R., on 24.05.2023 at 03:00 p.m., ASI Nasir Mehmood of P.S. Soldier Bazar, Karachi arrested the applicant from Haider Pan Shop, situated at Soldier Bazar, Karachi on being found in possession of four packets of Safina Gutka, two packets of Adaab Gutka, one packet of Baba 120 plus tobacco, four packets of One-to-One Gutka and three packets of Pan Parag Gutka, for that he was booked in the aforesaid Crime.

3. Heard, record perused.

4. After hearing the learned counsel for the applicant as well as learned Addl. P.G. and perusing the material available on record it appears that as per report of Chemical examiner, the alleged material is “*hazardous*” and not fit for “*human consumption*”. Under section 8(i) of the Act, the alleged offence of possessing, offer for sale, distribution or delivery on any terms whatsoever, importing, exporting or transporting and dispatching any “*derivative*”, “Gutka and

“Manpuri”, as defined in clauses (iv) and (viii) of the section 2 of the Act is punishable under section 8(1) of the Act with imprisonment up to three years and not less than one year; hence, the same does not fall within the prohibitory clause of section 497, Cr.P.C.

5. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception. It further appears that the applicant is confined in judicial custody since the day of his arrest, whereas police has already submitted challan against him; hence, his physical custody is not required by the police for further investigation. Accordingly, the instant application is allowed and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs.200,000/- (Rupees Lac Only) and P.R. Bond for like amount to the satisfaction of trial Court.

6. Needless to mention here that in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him requisite notice, as per rules.

JUDGE

Athar Zai