

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD

Cr. Bail Application No.S-671 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

18.09.2023.

Mr. Masood Rasool Babar Memon, Advocate for the Applicants.
Ms. Safa Hisbani, Assistant P.G Sindh.

ORDER

ARSHAD HUSSAIN KHAN, J.- This is an application under Section 497 Cr.P.C, whereby applicants have sought post-arrest bail in Crime No.60 of 2023 registered at P.S Tando Ghulam Ali District Badin, for the offence under Section 8 of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019. Their same plea has been rejected by the learned trial Court vide order dated 24.05.2023.

2. The brief facts of the prosecution case are that on 12.05.2023, complainant ASI Muhammad Ishaque Chang while patrolling with his subordinate staff reached near Zardari Road where they during snap checking stopped a white coloured van in which four persons were sitting, out of them one person escaped away while the present applicants were apprehended. On inquiry, the police party recovered hundreds of packets of crushed betel nuts, each packet containing 12 K.Gs (Total 468 K.Gs) which were to be used in preparing of Gutka and Mainpuries. Upon such recovery, mashirnama of arrest and recovery was made in presence of mashirs and then brought the applicants and case property at P.S and lodged F.I.R.

3. Learned Counsel for the applicants has contended that the applicants have been falsely implicated in this case by the Police to show their efficiency to their higher officers; that no any

independent person was cited as witness / mashir; that the alleged recovery is foisted upon the applicants; that the investigation has been completed and the applicants are no more required for further investigation; that the offence with which the applicants are charged does not fall within the prohibitory clause of Section 497 Cr.P.C. He; therefore, prays for grant of bail to the applicants.

4. Conversely, learned A.P.G has argued that a huge quantity of Gutka / Mainpuries / crushed betel nuts was recovered from a van which was in control and possession of the applicants; that no enmity against the Police is alleged by the applicants; that the items recovered from the applicants are dangerous for the lives of human being which if not restrained will spread in future; hence, she submits that this bail application may be dismissed.

5. Heard learned Counsel for the applicants as well as learned A.P.G and perused the record with their assistance.

6. After perusal of record it reflects that a huge quantity of Gutka / Mainpuries / Crushed Betel Nuts, total 468 KGs, was recovered from the exclusive possession of the applicants from a van while they were transporting it, which was in their control and possession and such a huge quantity of items could not be foisted upon the applicants particularly when no animosity or ill-will against the Police is alleged by the applicants. The P.Ws have supported the version of the complainant in their statements under Section 161 Cr.P.C. The report of Chemical Analyst with regard to alleged items has also come in positive and there is sufficient material available with the prosecution to connect the applicants with this heinous crime. In such situation, the bail cannot be claimed as a right more particularly in the cases involving huge quantity of such items which is dangerous than narcotics as it is known to cause a major life threatening diseases, such as, mouth cancer and other serious diseases. This crime against the society is affecting the public at large day by day and if it is not curbed immediately it will affect the lives of our children in future. Sufficient material is available with the

prosecution which connects the applicants with the offence.

7. In the circumstances, this bail application merits no consideration and is hereby dismissed. However, learned trial Court shall proceed with the case expeditiously and decide it preferably within 45 (forty five) days from the date of receipt of this order. In case, the prosecution fails to procure its witnesses and trial is not concluded within above stipulated time, the applicants shall be at liberty to file fresh bail application before the trial Court, which, if filed, shall be decided by the trial Court on its own merits.

8. Needless to say, the observations made in this order are of a tentative nature and only for the purposes of this bail application. Nothing herein shall affect the determination of the facts at the trial or influence the Trial Court in reaching its decision on the merits of the case.

JUDGE

Shahid

The learned D.P.G referring to photo stat of order dated 07.11.2019, passed by a learned single bench of this court, in Crl. Bail Application No.S-1124 of 2019, declining the bail to the accused in that case by dismissing his bail application, prays for dismissal of the instant bail application.