

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

Cr. Bail Application No.S-67 of 2025

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
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1. For orders on office objections.
2. For hearing of main case.

Applicants : 1. Shahzaib s/o Sher Dil  
2. Muhammad Wajid s/o Aurangzaib  
Through Mr. Asif Ali Solangi,  
Advocate.

The State : Through Ms. Sana Memon,  
Assistant P.G.

Date of hearing : 17.02.2025.  
Date of Order : 17.02.2025.

**ORDER**

**Abdul Hamid Bhurgri, J.-** Being un-successful in obtaining his release on bail from the Trial Court in Crime No.48 of 2024 registered at P.S Loonikot for offence under Section 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale & Use of Gutka and Mainpuri Act, 2019, the applicants named above have sought their release on bail through this bail application.

2. It is the case of prosecution that on 17.11.2024 at 1400 hours the police party of P.S Loonikot headed by ASI Imtiaz Ali Soomro started patrolling in their jurisdiction and when they reached at main road M-9 Motorway near Chowi No.12 they received spy information that a blue coloured Mazda Registration No.TKS-439 is coming from Karachi wherein intoxicant material is available. Having received such information they reached there and after having snap checking they caught hold the said vehicle. On search of vehicle, they found 200 sacks of Supari to be used in Mainpuri. Applicants were arrested and property was secured. Such Mashirnama of arrest and recovery was prepared in presence of police mashirs and thereafter applicants and case property

was brought at PS where present FIR was lodged against them on behalf of the State.

3. Learned Counsel for the applicants has contended that applicants are innocent and they have falsely been implicated in this case with ulterior motives; that alleged offence is punishable for imprisonment up to 03 years, as such, does not fall within prohibitory clause of Section 497 Cr.P.C; that applicants are in custody since their arrest without progress in the trial. He, therefore, has prayed that applicants may be admitted on bail for which he is ready to furnish surety.

4. Learned APG has recorded no objection for grant of bail mainly on the ground that offence does not fall within the prohibitory clause of Section 497 Cr.P.C.

5. I have heard the learned Counsel for applicants as well as learned APG and perused the material available on the record.

6. Admittedly, the alleged recovery has been effected from busy place where so many persons were available, but the complainant has failed to associate any independent person of the locality to witness the alleged recovery. The alleged offence carries punishment for imprisonment which may extend upto 03 years but may not be less than 01 year with fine of Rupees Two Lacs. It is settled law that while deciding the question of bail lesser sentence is to be considered. The alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C. In such like cases grant of bail is right and its refusal is exception. Reliance in this regard is placed upon the dictum laid down by the Honourable Supreme Court in case of MUHAMMAD TANVEER v. The STATE & another (PLD 2017 Supreme Court 733).

“We are shocked and disturbed to observe that in cases of this nature, not falling within the prohibition contained in section 497, Cr.P.C. invariably grant of bail is refused on flimsy grounds. This practice should come to an end because the public, particularly accused persons charged for such offences are unnecessarily burdened with extra expenditure and this Court is heavily taxed because leave petitions in

hundreds are piling up in this Court and the diary of the Court is congested with such like petitions. This phenomenon is growing tremendously, thus, cannot be lightly ignored as precious time of the Court is wasted in disposal of such petitions. This Court is purely a constitutional Court to deal with intricate questions of law and Constitution and to lay down guiding principle for the Courts of the country where law points require interpretation.”

7. Further, the challan has been submitted and applicants are behind the bars without any useful purpose and that they are no more required for further investigation. All the witnesses are police officials and their testimony is yet to be determined at the trial whether truthful or false, since then applicants’ case falls within the ambit of sub-section (2) to Section 497 Cr.P.C.

8. In view of what has been stated above, applicants are admitted to bail subject to their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each and P.R Bonds in the like amount to the satisfaction of the learned Trial Court.

9. It is, however, categorically clarified that the observations articulated herein are tentative and shall neither prejudice nor preempt the merits of the case at the stage of trial.

Accordingly, the bail application stands disposed of.

JUDGE