

## THE HIGH COURT OF SINDH AT KARACHI

### Special Criminal Bail Application No. 36 of 2025

[Inayatullah & another v. The State]

Applicants : (i) Inayatullah son of Ali Muhammad  
(ii) Sajjad Ali son of Achar  
through Mr. Adnan Ali, Advocate.

Respondent : The State, through Mr. Ghulam Mujtaba  
Saheto, Advocate for the Customs.

Date of hearing : 13-03-2025

Date of decision : 13-03-2025

*Case No. ASO 36/2025-HQ Dated 18.01.2025  
U/s: 2(s), 16, 17, 178, 187 of the Customs Act, 1969  
Punishable under sub-clause(b)(i) of clause (8) & (89)  
of section 156(1) r/w 156(2) & clause (1) & (2) of section  
(157), and section 3(1) of the Import & Export Control Act, 1950*

### ORDER

**Adnan Iqbal Chaudhry J.** - The Applicants seek post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi by order dated 06.02.2025.

2. FIR lodged on 18.01.2025 was that, on a tip-off the Preventive Officer on duty at Superhighway Chowk-Point signaled a Suzuki Swift with a Sindh Police number-plate to stop; instead, the vehicle accelerated; it was eventually stopped by the Customs team before it could exit the Karachi Toll Plaza; that on the back-seat and in the trunk of the vehicle were 60 bags containing foreign-origin betel nuts with a total weight of 600 kg; that the Applicant No.1 as driver of the vehicle and the Applicant No.2 as his assistant were arrested for smuggling the betel nuts when they could not satisfy lawful possession. They were booked for the offence of smuggling punishable under clause 8(i)(b) and clause (89) of section 156(1) of the Customs Act, 1969.

3. Counsel for the Applicants submits that the betel nuts were lawfully purchased from the local market at Karachi and were being transported to Hyderabad; the allegation that the vehicle was bearing a Sindh Police number plate is false; and that the Applicants were arrested with *malafides*. On the other hand, learned counsel for the Customs submits that the investigation revealed that the betel nuts were coming from Quetta and the Applicants were hired to transport them by a notorious betel nut smuggler, namely Jumma Khan, who has thus far evaded arrest.

4. Heard learned counsel and perused the record.

5. Though it is alleged that the seized betel nuts were of foreign-origin, the FIR and the final challan do not mention the country of origin, nor do those reveal a packing descriptive of the country of origin. The seizure was also not made from any border area. The import of betel nuts into Pakistan is not prohibited under the Import Policy Order, rather it is subject to certain conditions and restrictions. It was observed by the Supreme Court in *Sikandar A. Karim v. The State* (1995 SCMR 387) :

“If the items alleged to be smuggled by the prosecution were available freely in the open market and imports of such goods were not banned in the country, a presumption may arise that these goods were lawfully brought in the country unless contrary is shown.”

Therefore, it may well be that the betel nuts seized were lawfully imported and then traded in the local market and the Applicants were carrying the same for the subsequent purchaser. Such contention by the Applicants cannot be ruled out at this stage.

6. Amazingly, the final challan does not even specify the value of the seized betel nuts. The value specified in the interim challan is Rs.196,450/- which is less than the threshold required for prosecution under clause 8 of section 156(1) of the Customs Act. The maximum imprisonment prescribed in clause (89) of section 156(1) also does not exceed six years. Therefore, the offence alleged against the Applicants does not fall within the prohibitory clause of section 497 Cr.P.C.

7. In view of the foregoing, the case against the Applicants is one of further inquiry into their guilt, falling within the ambit of sub-section (2) of section 497 Cr.P.C. Therefore, the Applicants (i) Inayatullah and (ii) Sajjad Ali are granted bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 200,000/- [Rupees Two Hundred Thousand only] each, alongwith P.R. Bond in like amount to the satisfaction of the trial court.

Needless to state that the observations herein are tentative, and shall not be construed to prejudice the case of either side at trial.

**JUDGE**

Karachi  
Dated: 13-03-2025

\*PA/SADAM