

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.**

Cr. Bail Appln.No.S- 113 of 2025.

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DATE OF HEARING ORDER WITH SIGNATURE OF HON'BLE JUDGE

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- 1.For orders on office objection as flag A.
- 2.For hearing of bail application.

**17.3.2025.**

Mr. Mazhar Ali Mangan, advocate for the applicant.

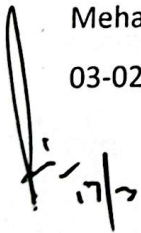
Mr. Nazir Ahmed Bangwar, D.P.G.

**ORDER**

**KHALID HUSSAIN SHAHANI-J.**- By this application, applicant is seeking post arrest bail in a case bearing Crime No.05 of 2025, offence u/s 3, 4, 5 & 8 of Sindh Prohibition of Preparation , manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019, P.S Mehar District Dadu.

02. As per prosecution theory, on 03.01.2025, police party led by SIP Ghulam Mustafa Solangi, whilst patrol intercepted a Ford Truck bearing registration No.TKC/752 at Mehar Indus Highway, apprehended the applicant being driver and allegedly recovered 48 gunny bags containing powder/material used in Manpuri Mawa Gutka, each weighing 19 K.Gs, out of which 1 K.G from each gunny bag was separated for chemical analysis. Meanwhile, the police party noticed a person jumping down from driver side escaped. Consequent upon; case was registered inter alia on above facts.

03. Bail plea on behalf of the applicant was declined by the learned Judicial Magistrate-III, Mehar and learned Additional Sessions Judge-II, Mehar in Cr. Bail Application No.11/2025 and 238/2025 vide orders dated 03-02-2025 and 13-02-2025, respectively.



04. It is mainly contended by learned counsel that applicant has been falsely implicated by the police by foisting false recovery of material used in Manpuri Mawa Gutka with mala fide and ulterior motives; both the mashirs of recovery and arrest are police personnel and no effort whatsoever was made to arrange private person to associate as mashir, despite venue of occurrence is said to be Beto Bypass, a public road, where traffic ply round the clock, in violation of the mandatory provisions of section 103 Cr.P.C; all the P.Ws are subordinate to the complainant, as such, highly interested and the offence does not fall within the ambit of prohibitory clause of section 497(1) Cr.P.C. He has relied upon an unreported case decided by this court vide order dated 13.7.2020 in Cr. Bail Appln. No.S-113 of 2025.

05. Learned DPG for the State records objection for granting bail to the applicant; however conceded that the case does not fall within the ambit of prohibitory clause of section 497 Cr.P.C.

06. There is nothing on record to suggest that the alleged recovery was effected from the exclusive possession of the applicant nor did he was found selling or preparing the hazardous/poisonous substance. Alleged recovery of material allegedly used in Manpuri and Mawa/Gutka from the truck driven by applicant is yet to be determined at the trial. Besides prosecution has not claimed the applicant is previously convict or booked in like cases. However, the Offence under Sections 3, 4, 5 and 8 of of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 carries punishment with imprisonment which may extend to three years but shall not be less than one year, thus the offence does not fall within prohibitory clause of Section 497(1) Cr.P.C. In such cases, the grant of bail is a rule, whereas refusal is an exception. No exceptional circumstances exist to decline bail. I am also fortified by case

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reported as Muhammad Tanveer V. The State and another (PLD 2017 SC 733), wherein the Supreme Court of Pakistan observed:

*"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.*

07. For what has been discussed above, prima facie applicant has succeeded to make out case for further inquiry, as envisaged u/s 497(II) Cr.P.C. Accordingly, applicant Ayaz Hussain Siyal is admitted to bail, subject to furnishing solvent surety in the sum of Rs.50,000/= and P.R bond in the like amount to the satisfaction of the trial Court.

  
JUDGE

Shabir/P.S