

**IN THE HIGH COURT OF SINDH, AT KARACHI**

Cr. Bail Appln. No. 2543 of 2025.

Applicant : Kashif Ahmed and Ravi Shankar through  
Mr.Abdul Hafeez Jagirani, Advocate.

Respondent : The State, through Mr.Hussain Bukhsh,  
Public Prosecutor for Railway Police a/w  
SIP Asad Khan, I.O Pakistan Railway Police  
Karachi.

Date of Hearing : 13.11.2025.

Date of Order : \_\_\_\_\_

**O R D E R**

**TASNEEM SULTANA, J:-** Through this Criminal Bail Application, the applicants seek the concession of pre-arrest bail in Crime No.110 of 2025 registered at Police Station Railway Police Cantt, Karachi, for an offence under Section 4/8 of the Gutka Mawa Act, 2019. Having obtained interim pre-arrest bail earlier, they now seek confirmation of the same.

2. Brief facts of prosecution case are that on 30-08-2025, the complainant SI/INS Ghulam Asghar Brohi while on checking duty at Platform No.7/8, Railway Station Karachi Cantt, along with his staff, intercepted three suspicious plastic bags brought by Pakistan Post through Khyber Mail Express, and on checking allegedly recovered one bag containing 432 sachets of Najma Zafrani Tobacco Patti No.800 and two bags containing Premium and Zafrani Tobacco Patti No.170, each bag containing 432 sachets, making a total of 1296 sachets; that the said bags bore the name of applicant Ravi Shankar as consignee and applicant Kashif Ahmed as sender along with Builty Nos.20989897-20989878-98777; that the booking was further verified through postal officials Suleman (Clerk) and Junaid Mubeen Malik (Sooter), whereafter the present FIR was registered under Section 4/8 of the Act read with Section 34 PPC.

3. Learned counsel for the applicants contends that the applicants are innocent and have been implicated merely on the basis of parcel details; that nothing was recovered from their possession; that the recovered items comprise tobacco patti and other commercial raw material which, in their

separate form, do not fall within the definition of “gutka” or “manpuri” under Section 2(viii) of the Act; that the applicants approached Pakistan Post for lawful booking and no clandestine attempt is alleged; and that the matter requires further inquiry in terms of the definitional ingredients of the statute. It is lastly submitted that the interim protection earlier granted may be confirmed.

4. Conversely, learned Special Prosecutor Railway opposes the confirmation of bail and submits that tobacco patti is used in preparation of gutka; that the labels mention the applicants; that the material was forwarded for chemical analysis and a prima facie connection exists. However, he concedes that no recovery was made from their physical possession.

5. Heard. Record perused.

6. At this stage, the Court is to make only a tentative assessment. The definitional clauses contained in Section 2(vi) and Section 2(viii) of the Gutka Mawa Act, 2019 provide that a “mixture” or “derivative” must comprise a combination of chalia, catechu, lime, tobacco or other prescribed ingredients forming an injurious substance. The material allegedly recovered in this case comprises Najma Zafrani Tobacco Patti No.800 and Premium/Zafrani Tobacco Patti No.170, which, as per FIR narration, are in their raw and separate form. Whether such raw tobacco patti, without admixture or combination, constitutes a “mixture” or “derivative” as defined in Section 2(viii) and Section 2(vi), is a matter that requires evidence and proper determination at trial.

7. The applicants are linked with the parcels by way of sender/consignee details only, and it is not alleged that any mixture of gutka, manpuri, or any derivative in terms of Section 2 was recovered from their possession, nor that they were found preparing, manufacturing or selling such mixture at the spot. The question whether the recovered tobacco patti, in its present form, falls within the mischief of “mixture” or “derivative” as defined in the Act, or whether it amounts to raw material which may or may not attract penal consequences, is a matter that cannot be conclusively determined without recording evidence. This aspect, therefore, prima facie brings the case of the applicants within the ambit of further inquiry in terms of Section 497(2) Cr.P.C.,

8. The honourable Supreme Court has restated the law in relation to the grant of pre-arrest in the case reported as Rana Muhammad Arshad v. Muhammad Rafique and another (PLD 2009 SC 427) as follows:

“Following is the framework within which and the guidelines according to which, the jurisdiction vesting in the High Courts and the Courts of Session is to be exercised:-

- a) grant of bail before arrest is an extraordinary’ relief to be granted only in extraordinary situation to protect innocent persons against victimization through abuse of law for ulterior motives.
- b) pre-arrest bail is not to be used as a substitute or as an alternative for post-arrest bail.
- c) bail before arrest cannot be granted unless the person seeking it satisfies the conditions specified through subsection (2) of section 497 of Code of Criminal Procedure i.e. unless he establishes the existence of reasonable grounds leading to a belief that he was not guilty of the offence alleged against him and that there were, in fact, sufficient grounds warranting further inquiry into his guilt;
- d) not just this but in addition thereto, he must also show that his arrest was being sought for ulterior motives, particularly on the part of the police; to cause irreparable humiliation to him and to disgrace and dishonour him.
- e) such a petitioner should further establish that he had not done or suffered any act which would disentitle him to a discretionary relief in equity e.g. he had not past criminal record or that he had not been a fugitive from law; and finally, that,
- f) in the absence of a reasonable and a justifiable cause, a person desiring his admission to bail before arrest, must, in the first instance, approach the court of first instance i.e. the Court of Session, before petitioning the High Court for the purpose.”

9. The case of the present applicant comes within the parameters laid down by the Honourable Supreme Court. In these circumstances, and keeping in view that nothing was recovered from the personal possession of the applicants, their connection rests upon parcel details alone, and the definitional ingredients of Section 2(viii) and 2(vi) require deeper examination at trial, the applicants have made out a case for confirmation of pre-arrest bail.

9. Accordingly, the interim pre-arrest bail earlier granted to applicants Kashif Ahmed and Ravi Shankar vide order dated 26-09-2025 is hereby confirmed on the same terms and conditions.

Bail application stands disposed of . Order accordingly.

**JUDGE**