

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2808 of 2025

Applicant :	Fayaz Ali Mr. Liaquat Ali Jamari, Advocate
Respondent :	The State Through Mr. Mohammad Noonari, D.P.G.
Date of hearing :	12.12.2025.
Date of order :	12.12.2025.

ORDER

TASNEEM SULTANA, J.— Through this criminal bail application, the applicant Al Fayaz Jamari seeks concession of pre-arrest bail in Crime No.334 of 2025, registered at Police Station Sujawal, for offences under Sections 4 & 8 of the Sindh Prohibition (Sale, Manufacture & Distribution) Act, read with Section 337-J, P.P.C. Having been rejected his earlier bail passed by learned Additional Sessions Judge-II, Sujawal, in Criminal Bail Application No.728 of 2025 vide order dated 04.10.2025. Hence this bail application for same concession.

2. Brief facts of the prosecution case are that on 05.09.2025, complainant/SIP Barkat Ali Chandio, along with police party, while patrolling, received spy information at Sujawal–Thatta Road, Branch Mori, that the applicant, along with co-accused Mukhtiar Jamari and Osama Chang, was present near sugarcane crops on Muchara Road with sacks of Mawa/Gutka for sale. It is alleged that upon arrival at about 1600 hours, the accused fled away by taking advantage of the crops and jungle; however, the police recovered 20 sacks from the sugarcane field, which upon checking were found 10000 Mawa/Gutka lying in afore mentioned sacks. Out of the recovered contraband, 10 puries were sealed for chemical examination, the remaining sacks were sealed separately, and photographs were taken through mobile phone. Since no private mashir was available, the mashirnama was prepared with signatures of police officials, and the instant FIR was lodged on behalf of the State.

3. Learned counsel for the applicant contended that the applicant is innocent and falsely implicated due to enmity with police officials; that he was neither present at the place of incident nor any recovery was effected from his exclusive possession; that no independent mashir was associated despite availability of public persons; that the applicant has been shown as absconder in multiple FIRs without ever being arrested, which clearly reflects mala fide intention; that in this regard the applicant has filed application U/S

491 Cr.P.C and also filed a direct complaint before Consumer Protection Court against SHO and other officials; and that prosecution case against the applicant calls for further enquiry and he is entitled to the concession of pre-arrest bail.

4. Conversely, learned Deputy Prosecutor General opposed the application and contended that the offence relates to possession/transportation of prohibited substance, which has serious adverse impact upon public health and society; that the police party has effected recovery of contraband from the place pointed out in the spy information; that the applicant, along with co-accused, fled away from the spot, which reflects his consciousness of guilt; that sufficient incriminating material is available on record to connect the applicant with the commission of the alleged offence; that the applicant is a habitual offender involved in similar cases; and that the extraordinary relief of pre-arrest bail is not warranted in the circumstances.

5. Heard. Record perused.

6. The allegation against the applicant, as emerging from the FIR, is that upon receipt of spy information, the police party reached near sugarcane crops at Muchara Road where the applicant, along with co-accused, was allegedly found present with sacks of Mawa/Gutka for sale; and that upon arrival of police, the accused fled away, whereas the contraband was allegedly recovered from the sugarcane field and was sealed through mashirnama prepared by police officials.

7. At this stage, the Court is required to see whether the material placed on record furnishes reasonable grounds to justify the applicant's arrest, or whether the circumstances warrant protection under the extraordinary jurisdiction of pre-arrest bail. In the present case, it *prima facie* appears that no recovery has been effected from the person or exclusive possession of the applicant, rather the alleged contraband was recovered from an open place/sugarcane crops, and the question whether such recovery can safely and legally be attributed to the applicant is a matter which requires determination after recording of evidence by the learned trial Court.

8. It further appears that no independent mashir from the locality has been associated at the time of alleged recovery despite the alleged occurrence having taken place at an open and accessible place, which gives rise to a question requiring further inquiry as to the transparency of the proceedings. Moreover, the applicant has placed on record certified copies of certain FIRs showing that he has repeatedly been declared absconding,

yet admittedly has not been arrested in any of those matters, and such aspect also calls for scrutiny at trial.

9. Additionally, the applicant's contention regarding initiation of proceedings under Section 491 Cr.P.C., and a direct complaint against the concerned SHO before the Consumer Protection Court, *prima facie* raises a question whether the applicant's implication in the present case is tainted with *mala fide* or retaliatory motive, which also requires further inquiry.

10. It is also observed that the alleged offences do not fall within the prohibitory clause of Section 497(1) Cr.P.C. and, in the given facts and circumstances, the alleged role attributed to the applicant calls for further inquiry.

11. It is a settled principle that bail is a rule and jail is an exception, and no person should be subjected to humiliation and disgrace through arrest when *prima facie* *mala fide* is apparent. Reliance is placed on **Tariq Bashir v. The State (PLD 1995 SC 34)**, **Muhammad Zubair v. The State (2019 SCMR 389)** and **Syed Imran Ali Shah v. The State (2020 SCMR 122)**.

12. In view of the foregoing discussion, the instant pre-arrest bail application was allowed and interim pre-arrest bail already granted to the applicant Al Fayaz Jamari vide order dated 15.10.2025 was confirmed on the same terms and conditions by my short order dated 12.12.2025 and these are reasons thereof.

13. The observations made herein are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE