

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.S-115 of 2026
(*Muhammad Aftab and others vs. The State*)

Applicants by : Mr. Mehfooz Ali Laghari, Advocate.

Respondent by : Mr. Neel Parkash, D.P.G.

Date of hearing : 18.05.2026

Date of Order : 18.05.2026

ORDER

ARBAB ALI HAKRO, J.: The applicants, namely Muhammad Aftab s/o Babo Khan, Nadeem s/o Allah Din Malak and Waseem s/o Allah Din Malak, seek pre-arrest bail under Section 498, Cr.P.C in Crime No.16 of 2026 registered at Police Station Taluka, Mirpurkhas, for offences under Sections 4, 5, 6, 7 and 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019. Their earlier plea for bail (Criminal Bail Applications No.271 and 272 of 2026) was declined by the learned Additional Sessions Judge-I, Mirpurkhas, vide order dated 18.03.2026, whereafter they approached this Court.

2. As per the FIR, on 10.03.2026 at about 0300 hours, a police party headed by SIP/SHO Sanjay Kumar, acting on spy information during patrolling, conducted a raid at the Otaque of applicant Waseem Malak situated near the Government Polytechnic College, Mirpurkhas. It is alleged that the applicants, upon seeing the police party, fled from the spot, while the police recovered 300 white sacks containing 14 kilograms each of "chura" (mixture) of Mainpuri, totalling 4200 kilograms, along with black shoppers containing 5 kilograms each of tobacco and "katho" and one black shopper containing 100 prepared Mainpuris. Samples were taken from each sack for chemical analysis, and the remaining property was sealed at the spot. The FIR was thereafter lodged.

3. Learned counsel for the applicants contends that the applicants were not present at the spot and have been falsely implicated with mala fide intent; that despite prior spy information, no private person was associated as mashir and both mashirs are police officials; that the entire case rests on police testimony; that the offence does not fall within the prohibitory clause of Section 497(1), Cr.P.C and that the challan has already been submitted and the applicants are facing trial. He prays for confirmation of interim pre-arrest bail.

4. Conversely, learned Deputy Prosecutor General opposes the application, arguing that the applicants fled from the spot; that a large quantity of material used in preparing Mainpuri, as well as prepared Mainpuris, was recovered; that police officials are competent witnesses unless mala fides are established and that the offence is against public health and society at large. He seeks dismissal of the application.

5. I have heard learned counsel for the parties and examined the available material. The record reflects that although the raid was conducted on prior spy information, no private person was associated as mashir and both mashirs are police officials. Their testimony, therefore, will require scrutiny at trial.

6. It is also evident that the entire prosecution case hinges on the evidence of police officials. In such circumstances, the possibility of the applicants tampering with the prosecution evidence appears remote. While police officials' evidence is legally admissible, if the entire case rests exclusively on such testimony, its reliability must be assessed at trial to determine whether the incident occurred as alleged.

7. Prima facie, the punishment under Section 8(i) of the Act is three years, which does not fall within the prohibitory clause of Section 497 of the Cr.P.C. In offences falling outside the prohibitory clause, bail is the rule and refusal the exception. Reliance may be placed on Tarique Bashir and

5 others v. The State (PLD 1995 SC 34) and Muhammad Tanvir and another v. The State (PLD 2017 SC 733).

8. In view of the above circumstances, the case of the applicants requires further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, this bail application is **allowed**, and the interim pre-arrest bail granted to the applicants vide order dated 19.03.2025 is hereby confirmed on the same terms and conditions.

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

JUDGE

Saleem