

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.
Crl. Bail Application No.S-955 of 2026.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
-----------------	-------------------------------

Applicants: 1. Zafar Ali son of Rab Nawaz Lashari
2. Sikandar son of Khaliq Dad Lahri
Through Mr.Zulfiqar Ali Panhwar Advocate.

The State: Through Mr. Mansoor Ahmed Shaikh, D.PG.

Date of hearing & order: 05.10.2026.

Suresh Kumar J:- Through instant bail application applicants/accused Zafar Ali Lashari and Sikandar Ali Lahri seek their post arrest bail in Crime No.235 /2026 for Offences Punishable U/Ss 7/8 of Sindh Prohibition of Preparation, Manufacturing, Storage, sale and Use of Gutka and Manpuri Act, 2019, registered at PS Naushahro Feroze.

2. Concisely, the facts of the prosecution as depicted in the FIR are that on 02.06.2026, the complainant, ASI Mumtaz Ali Khaskheli, lodged the FIR at Police Station Naushahro Feroze, stating that on the aforementioned date, he left the police station along with his staff under departure entry No. 20 at 2030 hours and patrolled various locations. During the patrol, he began checking vehicles, during which he seized one Toyota Corolla Car, Reg. No. BQN.963, in which one driver was seated, who disclosed his name as Zafar Ali Lahsari, while another person sitting in the back seat of the car identified himself as the accused Sikandar Ali; both were arrested. During the checking of the said car, they recovered 10 Kattas, of which 9 Kattas contained 50 packets each of Z-21 Gutka Suparies, while in one Katta, they found 37 packets of Gutka Suparies, which were recovered and sealed in the presence of mashirs PC Tahir Khan and PC Sadar Sadam Hussain. After the preparation of the mashirnama and observing the necessary formalities, the applicants were brought to the aforementioned police station, where the complainant, ASI Mumtaz Ali Khaskheli, lodged the FIR.

3. The applicant initially approached before the trial Court/Civil Judge & JM Naushahro Feroze, and thereafter, learned Addl. Sessions Judge, II, Naushahro Feroze, for grant of post arrest which were dismissed vide orders dated 10.06.2026 and 23.06.2026 respectively. Being aggrieved by the dismissal orders, the applicants/accused have approached this Court.

4. I have heard learned counsel for applicants/accused, learned D.P.G Sindh at length. Learned D.P.G has strongly opposed the grant of bail to the applicants/accused.

5. Having given due consideration to the arguments advanced by the counsel appearing on behalf of the applicants/accused and the learned Deputy Prosecutor General, and having perused the relevant material, it is revealed from the examination of the FIR that 10 Kattas of Gutka Suparies were allegedly recovered, out of which 9 Kattas contained 50 packets each of Z-21 Suparies, while in one Katta, there were 37 packets of Gutka Suparies, all in the presence of official mashirs. The charges fall under Sections 7 and 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale, and Use of Gutka and Manpuri Act, 2019, which carries a maximum punishment of up to three years. Therefore, this does not fall within the prohibitory provisions of Section 497(1) of the Code of Criminal Procedure. It is well-settled law that when the alleged offence does not fall within the prohibitory clauses of Section 497(1) of the Code of Criminal Procedure, the basic rule is the grant of bail, and its refusal is exceptional. No material has been brought on record by the learned Deputy Prosecutor General regarding exceptional circumstances in the present case to justify the refusal of bail. In this regard reliance is placed upon the case of **Tarique Bashir v. State PLD 1995 SC 34**. Moreover, no independent person has been associated as mashir for attestation of alleged recovery and arrest. In

the similar circumstances in the case of Muhammad Eidan vs. The (2022 P.Cr.L.J 143) has held as under:

---S.497(2)--- Sindh Prohibition of Preparation, Manufacturing, Storage, sale and Use of Gutka and Manpuri Act, 2019 (III of 2020), Ss.4&8 Penal Cod (XLV of 1860) Ss 269, 270 & 273—Possession of Gutka, ---Bail, grant of---Further inquiry---Record reflected that alleged recovery was affected from a populated area about no private person was associated as witness in the proceedings nor the complainant tried---All the witnesses were police officials, therefore, there was no apprehension of tempering the evidence---Investigation of case was complete and the challan had been filed before the Court having jurisdiction, therefore, the custody of accused was not required for further investigation---Sections 269, 270& 273, PPC were bail able and for the violation of S.4 of the Sindh Prohibition of Preparation, Manufacturing, Storage, sale and Use of Gutka and Manpuri Act, 2019 punishment of up to 03 years but not less than 01 years was provided---Even taking into account the maximum punishment of 3 years, said provision did not fall within the prohibitory clause of S.497, Cr.P.C.,--- having made out a case for further inquiry into his guilt, was granted bail in circumstances.”

6. Similar view has been taken by this Court in the case of Wali Muhammad v. The State **(2025 YLR 2803)**.

7. For the foregoing reasons and guidance taken from the above case law, I am of the considered view that applicants/accused have made out their case for grant of bail on the ground of further enquiry. Consequently the applicants/accused are admitted to bail subject to furnishing solvent surety in the sum of Rs.100,000/(one lac) each and PR bond in the like amount to the satisfaction of learned trial Court.

JUDGE

