

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Application No.S-168 of 2025.

Waheed & another v. The State

Applicant : Waheed & another through Syed Yasir Ali Shah,
Advocate.

Respondent : The State through Ms. Sana Memon, A.P.G for the State.

Date of hearing : 19.03.2025.

Date of Decision : 19.03.2025.

ORDER

Miran Muhammad Shah, J:- Through instant Bail Application, the applicants/accused namely, Waheed s/o Muhammad Azeem Brohi & Ghulam Rasool s/o Muhammad Ismail Brohi seek post arrest bail in Crime No.17/2025, registered at Police Station Matli, District Badin for the offence U/s 8 of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka & Manpuri Act-2019. Earlier bail plea of the applicants/accused was declined by the learned Additional Sessions Judge Matli vide order dated 12.02.2025.

2. The facts of the case are mentioned in the Bail Application and the copy of F.I.R. is also attached with the Bail Application, hence, needs not to reproduce the same here. **Muhammad Shakeel v. The State & others** (PLD 2014 Supreme Court 458).

3. The learned counsel for the applicants/accused argued that the applicants/accused are innocent and have not committed an offence as alleged in the FIR, the allegations are false, fabricated & concocted; that there are no reasonable grounds to believe that the applicants/accused are guilty. He has further argued that the police has implicated the applicants/accused just to show their performance before higher authorities, however, the applicants/accused are not involved in such offence; that the offence does not fall within prohibitory clause of Section 497 Cr.P.C; that the alleged place of arrest & recovery despite of public road, the police had failed to associate any independent witness and all the mashirs are police officials subordinate to complainant; that the case has been challaned and applicants/accused are no more required for further investigation; that the prosecution story from its face is appearing to be false & fabricated. He prayed that the applicants/accused may be admitted to bail as the case of applicants/accused is one of further inquiry.

4. On the other hand, learned A.P.G for the State has vehemently opposed the bail application of applicants/accused and argued that the huge quantity of contraband was recovered from the possession of applicants/accused, which was subsequently sent to chemical examiner, and such report is positive, therefore, they are not entitled for concession of bail. She lastly prayed to dismiss the bail application of applicants/accused.

5. Heard & perused.

6. This is a case of transportation of Gutka substance which is becoming a messenger of death and is being the main cause of mouth cancer and it is developing to great extent in the rural areas of Sindh. In fact the present Hyderabad Division has been badly affected specially district Thatta and Badin. The Government very rightly so had enacted this piece of legislation for putting the prohibition on preparation, manufacturing, storage, sale & use of gutka & manpuri in the year 2019. Before this Act this menace of Gutka and Manpuri was not even an offence in this Province, resultantly it was eating away the labour class and the youth of Sindh Province. Even females were becoming edict to this intoxicated material. It came to the observations of this court that a particular brand of Gutka called as Safina was prevalent to greater extent in the District Badin. So many FIRs were being lodged on the usage and transportation of this particular brand of Gutka i.e. Safina. The accused who were allegedly found transporting this material were apprehended on spot, however, since the punishment for the offence are so less and since do not fall within the prohibitory clause, most of these transporters/suppliers of this brand of Gutka were successful in obtaining bail. In this particular case, it was observed that it was again Police Station Matli, District Badin where this case transpired which it seems now has become hub of Safina Gutka. I have heard the parties at length as well as the learned A.P.G for the State, wherein it has transpired that the huge quantity of 11000 sachets of contraband material/Safina were being transported. Question of such a huge quantity being foisted upon is nearly an impossibility. No ill will or enmity has been pleaded. The transportation of Gutka & Manpiuri is a heinous offence and it effects the society at large, which needs to be curtailed. Due to lesser punishments, most of the time, the applicants/accused take the advantage and are granted bail, however, these offenders are habitual and cannot be allowed to move freely in the society selling and transporting this contraband. Strict and stern measures need to be taken by the concerned official authorities to safeguard our youth and our labour class. After going through the material available on record, I am of the firm opinion that the applicants/accused have not made out a case for bail due to the nature and quantity of the contraband stated to be Safina Gutka, therefore, case of present applicants/accused for bail is not made out, hence it is **declined**.

7. However, the case has already been challaned and trial has commenced, I therefore, direct the learned trial court to proceed with the trial expeditiously and after examining the material witnesses, conclusion of trial may be made forthwith within a period of **three months**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants/accused on merits.

JUDGE

Ali.