

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.**

Cr. Bail Application No.S-127 of 2023  
Cr. Bail Application No.S-128 of 2023

Cr. Bail Application No.S-195 of 2023  
Cr. Bail Application No.S-196 of 2023

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DATE	ORDER WITH SIGNATURE OF JUDGE
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17.04.2023.

Applicants in Cr. Bail Application Nos. 195 & 196 are present on interim pre-arrest bail.

Mr. Meer Ahmed Mangrio, Advocate for applicants in Cr. Bail Application No.S-127 & 128 of 2023.

Mr. Muhammad Rahim Gaju, Advocate for applicants in Cr. Bail Application No.S-195 & 196 of 2023.

Ms. Sana Memon, Asst. Prosecutor General, Sindh.

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**MUHAMMAD IQBAL KALHORO J:-** SIP Khair Muhammad Mallah Incharge PP Site Kotri on spy information about applicants running a factory situated in site Kotri along with absconder accused Rizwan for manufacturing Gutka and other narcotics raided the premises on 24.01.2023 along with his staff. The persons present in the factory along with watchman made their escape good after seeing the police. Police tried to catch them but in vain, however, from the factory huge quantity of ingredients used in manufacturing gutka including betel nuts and other articles used in packing, drill machine, appliances for sealing gutka, empty kartoons, generators, weight machine, packing bags etc. and 1010 grams of ice, were recovered. A detail of recovered articles 33 in number is duly mentioned in two (02) F.I.Rs bearing Crime No.12 & 13 of 2023. F.I.R No.12 of 2023 has been registered under Section 8 of Sindh Prohibition of Preparation Manufacturing Storage Sale & Use of Gutka, Mainpuri Act, 2019 whereas F.I.R No.13 of 2023 has been registered under Section 9-C of CNS Act, 1997.

Applicants Muhammad Mustaqeem @ Saqlain, Muhammad Haroon and Muhammad Asif have been booked in these cases on the basis of spy information received against them of running the factory, whereas applicant Muhammad Saleem has been arraigned in the cases as he is owner of the factory from which such

huge quantity of prohibited articles were recovered. Learned counsel for applicants Muhammad Mustaqeem @ Saqlain, Muhammad Haroon and Muhammad Asif in defense has argued that the articles were not recovered from the physical possession of the applicants; they were not even present at the spot and they have been booked on the basis of only hearsay evidence of their link with the factory, there is no documentary evidence against them, that applicants infact were running the said factory. Further applicants Muhammad Mustaqeem @ Saqlain, Muhammad Haroon and Muhammad Asif have been exonerated by the Investigating Officer under "C" class as there was no sufficient evidence against them.

Learned counsel for applicant Muhammad Saleem, who was arrested during investigation on 28.01.2023 submits that although the applicant is owner of the factory but he had rented out the same to absconder accused Rizwan through an agreement, the copy of which was endorsed to relevant SHO for information. The Investigating Officer is present in Court has admitted that the factory was rented out by accused Muhammad Saleem to absconder accused Rizwan. Regarding exoneration of the aforesaid three applicants, he submits that on the basis of independent evidence and the fact that in the investigation *prima facie* no evidence connecting them with the offence was found, therefore, he recommended disposal of the case against them under "C" class, but the Magistrate did not agree with his report and took cognizance of offence against them.

In any case the facts and circumstances stated above show that case against the applicants is one of further enquiry. Although learned Asst. Prosecutor General Sindh has opposed bail to the applicants but is not in a position to dispute that on the basis of mere spy information, applicants Muhammad Mustaqeem @ Saqlain, Muhammad Haroon and Muhammad Asif were booked in this case, otherwise they were not found present at the spot nor from their physical possession any contraband or prohibited articles were recorded. No documentary evidence to connect them with the factory has been *prima facie* found either. Applicant Muhammad Saleem has been booked in this case only because he is owner of the factory from which the recovery was effected but Investigating Officer has admitted that he had already rented out the said factory to absconding accused Rizwan and it is infact he who was running the said factory. Therefore, the question whether applicant Muhammad Saleem had any knowledge or involvement of his factory being

misused by the said accused for the purpose of preparing Gutka and selling narcotics is yet to be determined by the trial Court.

Accordingly, in view of the above, all these bail applications are allowed. The applicant Muhammad Saleem in Cr. Bail Application Nos. 127 & 128 of 2023 is granted post arrest bail subject to furnishing solvent surety in the sum of Rs.1,00,000/- [Rupees One Lac] each to the satisfaction of trial Court, whereas the ad-interim pre-arrest bail granted to applicants Muhammad Mustaqeem @ Saqlain, Muhammad Haroon and Muhammad Asif vide order dated 28.02.2023 in Cr. Bail Application No.S-195 & 196 of 2023 is hereby confirmed on the same terms and conditions.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

**JUDGE**

***\*Hafiz Fahad\****