

THE HIGH COURT OF SINDH AT KARACHI

Spl. Cr. Bail Application No. 197 of 2025

Applicants : i. Muhammad Hassan
ii. Imdad Ali
through M/s. Zaffar Ali Laghari,
Naresh Kumar and Deepak Mengwar,
Advocates.

The State : Mr. Majid Hussain, I.O. of the case.

Date of hearing : 13-08-2025

Date of decision : 13-08-2025

*FIR No. 17/2024-25 dated 23.06.2025
U/s. 2(s), 16 & 157 of the Customs Act, 1969
r/w section 3(1) of the Import & Export (Control)
Act, 1950, punishable under clauses (8) & 89) of
Section 156(1) of the Customs Act, 1969 and 157(2) ibid.
P.S. Collectorate of Customs Enforcement, Hyderabad*

ORDER

Adnan Iqbal Chaudhry J. - The I.O. informs that the department has not been able to instruct the Special Prosecutor Customs in this matter. Since this is the third date of the bail application, I am not inclined to adjourn it.

2. The Applicants seek post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi by a common order dated 15.07.2025.

3. As per the FIR, on a tip off, two cars on the road to Shaheed Benazirabad were chased down; that upon a search of the cars, the Anti-Smuggling Unit seized 1950 packets of Indian-origin gutka (Safina Brand); that the Applicants were arrested as drivers of the respective cars and booked for the offence of smuggling as defined in section 2(s) of the Customs Act, 1969 inasmuch as 'gutka' is included in the list of smuggled goods notified vide SRO No.556(I)/2005 dated 06-06-2005 (as amended).

4. Heard learned counsel and perused the record.

5. The Applicants do not claim to be owners of the seized goods or the cars transporting such goods. As per the investigation thus far, it is one Yasir Ali Brohi (co-accused) who is suspected to be the owner of the cars and the seized goods and who has yet to be arrested. Therefore, the submission of Applicants' counsel that they were merely drivers hired by said owner to transport the goods cannot be ruled out at this stage, and which places the Applicants in mitigating circumstances. Reliance can be placed on *Noorul vs. The State* (1976 SCMR 190).

6. The FIR and the interim challan do not mention the tentative value of the seized goods nor the quantity seized from each car and from each Applicant. In such circumstances, it has yet to be ascertained whether the offence allegedly committed by the Applicants would even attract the maximum punishment envisaged under clause 8 of section 156(1) of the Customs Act. As regards clause 89 of section 156(1) of the Act, the other provision cited in the FIR, the maximum term of imprisonment provided therein is six years. Therefore, the offence alleged against the Applicants does not appear to fall within the prohibitory clause of section 497 Cr.P.C.

7. In view of the foregoing, the Applicants namely, Muhammad Hassan and Imdad Ali, are granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 500,000/- [Rupees Five Hundred Thousand only] each alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that the observations herein are tentative, and shall not be construed to prejudice the case of either side at trial.

JUDGE

Karachi

Dated: 13-08-2025

*PS/SADAM