

**oIN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

**Criminal Bail Application No.S-142 of 2025**

Applicant/ accused: Lalio s/o Ramchand Bheel  
Through Mr. Meer Muhammad Nohri, Advocate.

The State: Through Mr. Neel Parkash, D.P.G.

Date of hearing: 05.06.2025

Date of order: 05.06.2025

**O R D E R**

**Jan Ali Junejo, J.** – This order shall dispose of the post-arrest bail application filed on behalf of the Applicant/accused, Lalio S/o. Ramchand, seeking bail in connection with FIR No. 40 of 2025, registered at Police Station Mithi, for an offence punishable under Section 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale, and the Use of Gutka & Mainpuri Act, 2019. The applicant had previously approached the Civil Judge & Judicial Magistrate-I, Mithi, and the Sessions Judge, Tharparkar at Mithi, whose bail applications (Criminal Bail Application No. 25 of 2025 and Criminal Bail Application No. 171 of 2025, respectively) were dismissed vide orders dated 23.05.2025 and 29.05.2025.

2. The prosecution's case, in a nutshell, as per the FIR lodged by SIP Pardeep Kumar on 10.05.2025, is that on the said date at approximately 1500 hours, he, along with subordinate staff, commenced routine patrol duty from Police Station Mithi. At about 1550 hours, near Civil Hospital Mor, they received secret information regarding the illicit collection and storage of gutka puri by four individuals, including the applicant Lalio S/o. Ramchand, congregated in front of a Government Godown functioning as a makeshift warehouse. Upon raiding the premises at approximately 1600 hours, three co-accused (Sultan, Mehandro, and Manoj) allegedly fled by scaling the boundary wall, while the applicant Lalio was apprehended. From the premises, a substantial quantity of assorted chewing tobacco products,

including Royal King, Habibi, Salam, and Z-21 gutka, totaling 84 bags (2,100 packets) was recovered. Two sachet from a packet of each katta/sack containing packets of chewing tobacco products, were extracted for forensic analysis, and the remaining items were sealed as evidence. Two currency notes of Rs. 1000 each were also recovered from the applicant's personal search. The applicant allegedly confessed to procuring and intending to distribute the contraband with his co-accused. Subsequently, the FIR was registered, and the applicant was taken into custody.

3. The learned counsel for the applicant/accused, contended that the applicant is innocent and has been falsely implicated. He argued that no contraband was recovered from the personal possession of the applicant, and the alleged recovery was foisted upon him. It was further submitted that despite prior spy information, no private individual was associated as a witness during the search and recovery, which is a violation of Section 103 Cr.P.C., especially since the alleged incident occurred in a thickly populated area. The learned counsel emphasized that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C., and thus, bail is a rule and its refusal an exception. He also pointed out the absence of video recordings or photographs by the police during the search and arrest, which could have provided useful corroborative evidence. He further argued that the applicant has no criminal record, will not tamper with prosecution evidence, and is the sole supporter of his family, deserving bail on humanitarian grounds. Lastly, the learned counsel prayed for grant of bail.

4. The learned Deputy Prosecutor General (DPG) for the State, vehemently opposed the grant of bail, contending that a substantial quantity of gutka, totaling 2100 packets of various brands, was recovered from the premises under the control of the applicant. He submitted that the applicant

was apprehended on the spot, and the sheer volume of the recovery indicates a clear intent of commercial storage and sale, suggesting organized trafficking. The learned DPG argued that while the offence may not fall under the prohibitory clause, the nature of the substance (gutka) is injurious to public health, and the offence is against society as a whole. He contended that the previous bail applications were rightly dismissed by the learned lower courts after due consideration of the facts and law. Lastly, the learned DPG prayed for dismissal of bail.

5. Having heard the learned counsel for the applicant and the learned DPG for the State at length. I have also considered the material available on record with a tentative assessment which is permissible under the law. It is an undisputed fact that the offence under Section 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale, and the Use of Gutka & Mainpuri Act, 2019, does not fall within the prohibitory clause of Section 497 Cr.P.C. While it is true that bail is not a matter of right even in non-prohibitory cases, the general rule is that bail should be granted in such cases, and its refusal is an exception, to be exercised only in cases involving exceptional circumstances or where there are reasonable grounds to believe that the accused is guilty of a non-bailable offence. Furthermore, it is pertinent to note that the maximum punishment prescribed under Section 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale, and the Use of Gutka & Mainpuri Act, 2019 is three years, while the minimum is one year. Therefore, for the purposes of adjudicating the present bail application at this preliminary stage, the lesser sentence is to be considered. A significant point of contention arises from the failure to associate private witnesses under Section 103 Cr.P.C., despite the alleged incident taking place in a populated area, in broad daylight, and with prior spy information. Although police officials are considered competent witnesses, the absence of

independent public witnesses in a case involving alleged recovery from premises, especially when there was advance intelligence, warrants closer examination during the trial. This particular aspect, at the bail stage, presents a strong arguable point in the applicant's favor. The applicant has been in judicial custody since his arrest. The recovery has already been effected, and major investigative steps, such as taking samples for chemical analysis and preparing the memo of arrest and recovery, have been completed. The continued incarceration of the applicant for the mere awaiting of the chemical analysis report or submission of the challan, especially when the offence does not fall under the prohibitory clause, does not appear to be justified at this stage. Bail should not be withheld as a punishment. At the bail stage, only a tentative assessment of the available material is required, and deeper appreciation of evidence is to be avoided. The arguments raised by the learned counsel for the applicant, particularly concerning the non-applicability of the prohibitory clause and the non-compliance with Section 103 Cr.P.C., create sufficient grounds for further inquiry into the applicant's guilt. In similar circumstances, in the case of ***Muhammad Eidan v. The State (2022 P.Cr.L.J. 143)***, this Court held as follows: "Sections 269, 270 and 273, P.P.C. are bailable and *for the violation of section 4 of the G and MP Act, 2019, punishment is provided in section 8 of the said Act which is up to 03 years but shall not less than 01 year and fine of rupees two lacs. It is settled by now that while deciding the question of bail lesser sentence is to be considered.* In *Shahmor's case* 2006 YLR 3167 while considering the lesser sentence of the offence this Court granted bail to the accused. As has been discussed above in respect of the punishment provided for the alleged offence for which the applicant is charged, the same provided maximum punishment up to 03 years which even does not fall within the prohibitory clause of section 497, Cr.P.C. and grant of bail in these case is right while refusal is an exception as has been held by

*Honourable Supreme Court of Pakistan in cases of Tarique Bashir v. State (PLD 199 SC 34), Zafar Iqbal v. Muhammad Anwar (2009 SCMR 1488), Muhammad Tanveer v. State (PLD 2017 SC 733) and Shaikh Abdul Raheem v. The State and others (2021 SCMR 822)”.*

6. In view of the foregoing, and after a tentative assessment of the material available on record, this Court finds sufficient grounds for further inquiry into the applicant's involvement in the alleged offence. Accordingly, the instant bail application is allowed. The Applicant, Lalio S/o. Ramchand, is admitted to bail subject to furnishing his solvent surety in the sum of Rs. 100,000/- (Rupees One Lac Only) and a P.R. bond in the like amount to the satisfaction of the learned Trial Court. It is further clarified that any observations contained herein are confined to the adjudication of the instant bail application and shall not, in any manner, prejudice the case of either party on merits during the trial. These are the reasons of short Order passed today in early hours.

**JUDGE**

\*Adnan Ashraf Nizamani\*

**Jan Ali Junejo, J.** – The applicant/accused, Salamat Ali Lakho, has filed the present post-arrest bail application following the dismissal of his earlier application bearing No.09/2025 by the learned Additional Sessions Judge-II, Mirpurkhas, vide order dated 03.03.2025. The current proceedings stem from F.I.R./Crime No.170 of 2023, registered at Police Station Town Mirpurkhas under Sections 324, 337-A(i), 337-F(iii), 114, 148, 149 and 504 of the Pakistan Penal Code (P.P.C.).

2. The prosecution's case, as set forth in the FIR lodged by the complainant, Manthar Ali Mari, reveals that on 30.12.2023, at approximately 10:00 AM, the Complainant, accompanied by Ali Hassan, Nadir Ali Mari, Akbar, and Ali Gohar Mari, was present at the office of the Returning Officer, Taluka Hussain Bux Mari, Mirpurkhas. During their presence, Salamat Ali Lakho, Amanat Ali Lakho, Nadir Ali Lakho, Sultan Lakho—allegedly involved in extortion—and seven unidentified armed individuals arrived and confronted the complainant's party regarding the submission of nomination papers. It is alleged that Salamat Ali, incited by Amanat Ali, fired a pistol shot that struck Ali Hassan in the left thigh. Simultaneously, the other accused, armed with Kalashnikovs, opened fire, causing injuries to Nadir Ali Mari. The assailants reportedly raised intimidating slogans, carried out aerial firing to instill fear and chaos, and threatened the complainants with dire consequences should they fail to withdraw from the electoral process. Following the incident, the accused fled the scene in a white Land Cruiser and a white Revo vehicle, while the injured were transported to the Civil Hospital for medical treatment.

3. The learned counsel for the applicant contended that the applicant has been falsely implicated due to malicious intent and ulterior motives arising from

an ongoing property dispute. It is further asserted that the injuries sustained by Ali Hassan and Nadir Ali are self-inflicted, aimed at strengthening a fabricated case against the applicant. The role attributed to the applicant/accused is described as unreliable and doubtful, necessitating thorough investigation. It is contended that the version presented in the FIR is superficial, inconsistent, and lacks credibility, failing to convince a reasonable mind, therefore, the matter calls for further inquiry under Section 497(2) of the Cr.P.C. Lastly, he prayed for the grant of post-arrest bail to the applicant/ accused.

4. The learned counsel for the complainant vehemently opposed the bail application, asserting that the applicant is specifically named in the FIR and that the witnesses have supported the complainant's version of the incident. The injury to the injured Ali Hassan and Nadir Ali is supported by the medical evidence. The counsel contended that the applicant is not entitled to the concession of bail, especially given the seriousness of the allegations. Lastly, the learned counsel prayed for dismissal of the bail application.

5. The learned Deputy Prosecutor General Sindh supported the complainant's contentions and urged the Court to dismiss the bail application. It was emphasized that the offences under Sections 324 P.P.C. is serious in nature, non-bailable, and the case does not fall within the purview of the prohibitory clause under Section 497(1), Cr.P.C. Lastly, the learned D.P.G prayed for dismissal of the bail application.

6. I have carefully considered the arguments advanced by the learned counsel for the applicant, the learned counsel for the complainant, and the learned Deputy Prosecutor General, and have also examined the material available on record, making a tentative assessment as permitted at the bail stage. The case involves a solitary firearm injury allegedly inflicted by the applicant on the injured Ali Hassan, which struck his right thigh. Whether this injury was of

a fatal nature remains undetermined at this stage. It is noteworthy that, despite the injured being at the mercy of the applicant and other armed co-accused, there is no allegation that the applicant repeated the firing. Consequently, the essential ingredients of the offence under Section 324, P.P.C., appear, prima facie, to be lacking. In light of the foregoing circumstances, the case against the present applicant falls within the scope of further inquiry as contemplated under Section 497(2) of the Criminal Procedure Code. In a case of similar nature, ***Saeedullah and 2 others v. The State and another (2023 SCMR 1397)***, the Honourable Supreme Court of Pakistan held that: *“As stated above, the complainant sustained injuries on non-vital parts of the body whereas more than 37 empties have been recovered from the place of occurrence, which prima facie shows that the accused had no intention to kill the complainant despite having ample opportunity to do so. In this view of the matter, the question whether section 324, P.P.C. would be applicable in the case or not would be determined by the learned Trial Court after recording of evidence”*. In another similar case, ***Muhammad Umar v. The State and another (PLD 2004 SC 477)***, the Honourable Supreme Court of Pakistan observed that: *“A perusal whereof indicates that allegedly the petitioner fired upon the outer side of the right leg's middle part of the injured Shahid Iqbal, therefore, prima facie, We are of the opinion that he had no intention to fire upon the vital part of the injured Shahid-Iqbal for the purpose of launching murderous assault. Be that as it may, now the challan has been submitted, trial has commenced, petitioner is in custody with effect from the date of his arrest and is no more required for the purpose of investigation of the case, therefore, no useful purpose will be served by keeping him in custody”*. Reference may also be made to the principle enunciated by the Honourable Supreme Court of Pakistan in the case of ***Jamaluddin and another v. The State (2023 SCMR 1243)***. It has further come on record that the applicant had instituted Constitutional Petition No. S-236 of 2021 before the Honourable High Court of Sindh, Circuit Court



Hyderabad, which was allowed by order dated 23.09.2022. In that order, the learned Bench directed that a thorough probe be conducted regarding the multiple FIRs registered against the applicant and further ordered that no fresh FIR shall be lodged against him without prior permission of the concerned Judicial Magistrate. Pursuant to the said directions, an inquiry was carried out, which revealed that several false FIRs had indeed been registered against the applicant. In view of these circumstances, coupled with the admitted political rivalry evident from the contents of the FIR, the possibility of the applicant's false implication in the present case, though ultimately to be adjudicated at the stage of trial, cannot be ruled out at this stage of bail proceedings.

7. For the reasons discussed hereinabove, the post-arrest bail of the applicant/accused, Salamat Ali Lakho, is hereby granted and the applicant/accused is admitted on bail subject to furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Lac Only) and P.R. Bond in the like amount to the satisfaction of the learned trial Court.

8. It is, however, clarified that the observations made in this order are purely tentative in nature and are confined solely to the adjudication of the present bail application. These findings shall not influence or prejudice the case of either party at the stage of trial or final adjudication on merits. These are the reasons of short Order dated 03-06-2025.

**JUDGE**

*\*Saleem\**

**Jan Ali Junejo, J:** The applicant/accused, Salamat Ali Lakho, has filed the present post-arrest bail application following the dismissal of his earlier

application bearing No.09/2025 by the learned Additional Sessions Judge-II, Mirpurkhas, vide order dated 03.03.2025. The current proceedings stem from F.I.R./Crime No.170 of 2023, registered at Police Station Town Mirpurkhas under Sections 324, 337-A(i), 337-F(iii), 114, 148, 149 and 504 of the Pakistan Penal Code (P.P.C.).

2. The prosecution's case, as articulated in the FIR lodged by the complainant, Manthar Ali Mari, indicates that on 30.12.2023 he alongwith Ali Hassan, Nadir Ali Mari, Akber and Ali Gohar Mari went to the R.O Office Taluka Hussain Bux Mari for election nomination form. Ali Gohar went in the room of Assistant Commissioner in Assistant Commissioner's Office and they were available in the office where at 1000 hours Salamat Ali Lakho, Amanat Ali Lakho, Nadir Ali Lakho and Sultan Lakho, who belong to criminal group, alongwith 7 unknown persons, who would be identified on seeing, came out. Salamat Ali was armed with pistol and remaining were armed with kilashankovs. Salamat Ali Lakho after abusing told that why they are filling election form infront of him. Then Amanat Ali Lakho instigated Salamat Ali Lakho not to leave them and commit their murder whereupon Salamat Ali Lakho made direct fire from his pistol upon Ali Hassan, which hit on the thigh of left leg and he fell down. They tried to save him whereupon all accused made firing upon them and Sultan Lakho caused butt of kilashankov to Nadir Mari, who became injured. Then accused person while raising slogans, making aerial firing, creating fear/terror and issuing threats of dire consequences went away in vehicles. Thereafter, they brought injured Ali Gohar at civil hospital and after obtaining letter for medical treatment got his medical treatment; after providing first aid he was admitted in hospital. Thereafter, complainant came at PS and lodged instant FIR.

3. The learned counsel for the applicant contended that the applicant has been falsely implicated due to malicious intent and ulterior motives arising from

an ongoing property dispute. It is further asserted that the injuries sustained by Ali Hassan and Nadir Ali are self-inflicted, aimed at strengthening a fabricated case against the applicant. The role attributed to the applicant/accused is described as unreliable and doubtful, necessitating thorough investigation. It is contended that the version presented in the FIR is superficial, inconsistent, and lacks credibility, failing to convince a reasonable mind, therefore, the matter calls for further inquiry under Section 497(2) of the Cr.P.C. Lastly, he prayed for the grant of post-arrest bail to the applicant/ accused.

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**JUDGE**