

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

Cr. Bail Application No. S- 599 of 2020

DATED	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

17.07.2020

Mr. Ghulamullah Chang, Advocate for applicants.

Mr. Shahzado Saleem Nahiyoona, D.P.G for State.

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ZAFAR AHMED RAJPUT, J- Having been rejected their earlier Cr. Bail Application bearing No. 707 of 2020 by the Sessions Judge, Badin, vide order dated 19.06.2020, applicants (1) Muzafar Ali s/o Muhammad Khan and (2) Kashif Ali s/o Allah Jurio, through instant application, seek post-arrest bail in Crime No.29 of 2020, registered under section 8 of Sindh Prohibition of Preparation Manufacturing Storage Sale & Use of Gutka, Mainpuri Act, 2019 (Sindh Act No.III, 2020) at P.S. Gulab Leghari.

2. Precisely, the allegations against the applicants are that on 14.06.2020 at 1330 hours they were arrested by a police party headed by SIP / SHO Riaz Hussain Rind of PS Gulab Leghari from main road Gulab Leghari leading to Shaikh Bhirkio near Sandi Stop having being found in possession of 9500 gram Mainpuri.

3. Learned counsel for the applicants / accused has contended that applicants are innocent and have falsely been implicated in this case; that despite prior spy information the I.O failed to arrange the private witness to witness the alleged recovery and despite of the fact that the alleged recovery was shown effected in day time from a busy area, no private mashir was taken from the locality; that there is no previous criminal record of applicants of indulging in any such like activity; that the alleged offence being punishable for three (03) years does not fall within the prohibitory clause of Section 497 Cr.P.C; hence, the applicants are entitled for the grant of post-arrest bail.

4. Conversely, learned D.P.G appearing on behalf of State has opposed this application on the ground that applicants were found in

possession of huge quantity of Mainpuri which as per report of Government Public Analyst Hyderabad, not recommendable for human consumption within the meaning of section (5) of Pure Food Ordinance, 1960 and also contravenes the provisions of Rule (11) of Sindh Pure Food Rules, 1965.

5. I have heard the arguments of learned counsel for the applicants and learned D.P.G and perused the material available on record with their assistance.

6. It appears that the applicants were arrested on 14.06.2020 and since then they are in judicial custody. The police has submitted challan hence, their custody are no more required for further investigation. The alleged offence being punishable for three (03) years does not fall within the prohibitory clause of Section 497 Cr.P.C. In such like cases, basic rule is bail not jail. The trial is likely to take some time and no fruitful result come out in case accused are kept in judicial custody for an indefinite period.

7. Accordingly, this Cr. Bail Application is allowed. Consequently, the applicants are admitted to post arrest bail subject to furnishing their solvent surety in the sum of Rs.50,000/- [Rupees Fifty Thousand] each and PR bond in the like amount to the satisfaction of trial Court.

8. Needless to mention here that in case applicants/accused in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel their bail after issuing them the requisite notice.

JUDGE

****Hafiz Fahad****