

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Application No. S-306 of 2026

Criminal Bail Application No. S-313 of 2026

Applicants : Ali Raza son of Muhammad Shafiq Khanzada (Cr.B.A No.306 of 2026) & Usama Khanzada son of Abdul Razzak Khanzada (Cr.B.A No.313 of 2026), through M/s. Aashique Hussain Jatoi, Naseer Ahmed Waggan, Asad Ali Buledi & Abdul Qudoos Jatoi, Advocates

The State : Through Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh

Date of Hearing : 21-09-2026

Date of Order : 21-09-2026

ORDER

RIAZAT ALI SAHAR, J. – Through this common order, I intend to dispose of the above-captioned two bail applications, as both arise out of the same crime and occurrence. Applicant/accused Usama Khanzada seeks confirmation of his interim pre-arrest bail, whereas applicant/accused Ali Raza seeks post-arrest bail, in Crime No.162 of 2026, registered at Police Station Kamber City, District Kamber-Shahdadkot, for offences under Sections 4 read with 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 (“the Act, 2019”).

2. Briefly stated, the prosecution case is that on 04.06.2026, a police party, while on patrol, allegedly received spy information regarding the sale of Gutka Supari by applicant/accused Usama Khanzada and co-accused Ali Raza. Acting upon such information, the police party proceeded to the pointed place, where applicant/accused Usama Khanzada allegedly succeeded in making good his escape, whereas applicant/accused Ali Raza was apprehended. Two bags/bachkas containing 104 packets of Gutka Supari,

having a total weight of 23,920 grams, were allegedly recovered from the shop. Consequently, Ali Raza was arrested and the subject F.I.R. was registered against the applicants.

3. Learned counsel for applicant/accused Ali Raza contends that the applicant has been falsely implicated in the present case and that no Gutka Supari was recovered from his personal possession. He further submits that all the mashirs of the alleged recovery are police officials and that no private person from the locality was associated with the proceedings despite their availability, thereby attracting the provisions of Section 103, Cr.P.C. It is further contended that the alleged recovery was effected by an Assistant Sub-Inspector, whereas, according to learned counsel, Section 14 of the Act, 2019 authorizes an officer not below the rank of Sub-Inspector to exercise the powers of arrest, search and seizure. Lastly, he submits that the alleged offence does not fall within the prohibitory clause of Section 497(1), Cr.P.C.; that the applicant is no longer required for investigation; and that his continued incarceration would serve no useful purpose. He, therefore, prays for grant of post-arrest bail. Learned counsel appearing for applicant/accused Usama Khanzada, on substantially similar grounds, seeks confirmation of the interim pre-arrest bail already granted to him by this Court.

4. Conversely, learned Deputy Prosecutor General, Sindh, appearing for the State, does not oppose either the confirmation of interim pre-arrest bail already granted to applicant/accused Usama Khanzada or the grant of post-arrest bail to applicant/accused Ali Raza.

5. The record further reflects that applicant/accused Ali Raza initially sought bail before the learned Judicial Magistrate-II, Kamber, but his application was dismissed vide order dated 09.06.2026. Thereafter, he approached the learned Sessions Judge, Kamber-Shahdadkot at Kamber, by filing a post-arrest bail application, which was transferred to the Court of learned Additional Sessions Judge-I/MCTC, Kamber, where his prayer for bail was declined vide order dated 15.06.2026.

6. I have heard learned counsel for the applicants and learned Deputy Prosecutor General, Sindh, and have carefully examined the available record as well as the relevant provisions of the Act, 2019.

7. Prima facie, applicant/accused Ali Raza is shown to have been apprehended from a shop stated to be that of applicant/accused Usama Khanzada, from where two bags/bachkas containing 104 packets of Gutka Supari, weighing 23,920 grams, were allegedly recovered. Significantly, no recovery of Gutka Supari is alleged to have been effected from the personal possession of applicant/accused Ali Raza. The allegation, as presently set out in the F.I.R., attracts Section 4 of the Act, 2019, contravention whereof is punishable under Section 8 thereof. For convenience, Section 8 of the Act, 2019 is reproduced as under: —

“8. (1) Whoever contravenes the provision of sections 3, 4, 5, 6 and 7 shall be punishable with imprisonment which may extend to three years but shall not be less than one year and shall also be liable to fine which shall not be less than two lacs (two hundred thousand) rupees.

(2) In case of default of payment of fine under sub-section (1), the accused shall undergo an additional imprisonment extending to six months and in case of subsequent offence shall be punished with imprisonment for a term which may extend to ten years but shall not be less than five years and fine which shall not be less than five lacs (five hundred thousand) rupees.”

8. A bare reading of Section 8(1) shows that, in the case of a first offence, the maximum punishment prescribed is imprisonment which may extend to three years. The alleged offence, therefore, does not fall within the prohibitory clause contained in Section 497(1), Cr.P.C. It is by now well settled that in offences falling outside the prohibitory clause, grant of bail is the rule and refusal an exception, unless exceptional circumstances exist warranting denial of such concession. Reference in this regard may appropriately be made to *Tariq Bashir and 5 others v. The State* (PLD 1995 SC 34) and *Muhammad Tanvir and another v. The State* (PLD 2017 SC 733).

9. Apart from the above, the alleged contraband was recovered from a shop attributed to applicant/accused Usama Khanzada and not from the personal possession of applicant/accused Ali Raza. Whether the mere presence of Ali Raza at the shop was sufficient to connect him with the recovered substance and whether he exercised conscious possession, dominion or control over the same are questions which require deeper examination after recording of evidence at trial. Likewise, the objection regarding the competence of the officer who allegedly effected the arrest,

search and seizure in the context of Section 14 of the Act, 2019, as well as the legal effect, if any, of non-association of private mashirs, are matters to be examined by the learned trial Court upon recording of evidence. Nevertheless, at the bail stage, these circumstances cannot altogether be ignored while determining whether reasonable grounds exist for believing the applicant guilty of the alleged offence or whether his case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

10. Thus, keeping in view the maximum punishment prescribed for the alleged offence, which does not attract the prohibitory clause of Section 497(1), Cr.P.C.; the absence of any recovery from the personal possession of applicant/accused Ali Raza; the circumstances surrounding the alleged recovery; and the fact that learned Deputy Prosecutor General, Sindh, does not oppose the grant of bail, I am tentatively satisfied that the case of applicant/accused Ali Raza, at this stage, falls within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C.

11. As regards applicant/accused Usama Khanzada, he seeks confirmation of the interim pre-arrest bail granted to him by this Court vide order dated 24.06.2026. Learned Deputy Prosecutor General, Sindh, has not opposed confirmation thereof. Having examined the available record and keeping in view the nature of the accusation, the punishment prescribed for the alleged offence and the circumstances discussed hereinabove, no sufficient ground is presently available for recalling the interim protection already extended to him. Consequently, the interim pre-arrest bail granted to applicant/accused Usama Khanzada is liable to be confirmed.

12. For the foregoing reasons, Criminal Bail Application No.S-313 of 2026, filed by applicant/accused Usama Khanzada, is allowed and the interim pre-arrest bail granted to him by this Court vide order dated 24.06.2026 is hereby confirmed on the same terms and conditions. Likewise, Criminal Bail Application No.S-306 of 2026, filed by applicant/accused Ali Raza, is also allowed. He is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

13. Needless to observe that all observations made hereinabove are tentative in nature and confined strictly to the disposal of the present bail applications. They shall neither prejudice the case of either party nor influence the learned trial Court while deciding the case on its own merits after recording the evidence.

Note regarding discrepancy in the privately published texts of Section 12 of the Act, 2019

14. During examination of the relevant statutory provisions, this Court has noticed a material discrepancy in the reproduction of Section 12 of the Act, 2019 in two privately published editions of the statute.

In the Major Acts Book, published by **Al-Qanoon Publishers, 2-Mozang Road, Lahore, Section 12** has been reproduced as under: —

“12. Offences.— The offences under this Act, shall be cognizable, non-bailable and not compoundable except section 8 of this Act which shall be non-cognizable, bailable and compoundable.”

However, in The Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka & Manpuri Act, 2019, published by Ideal Publishers, Karachi, Section 12 has been reproduced as under: —

“12. Offences.— The offences under this Act, shall be cognizable, non-bailable and not compoundable except section 9 of this Act which shall be non-cognizable, bailable and compoundable.”

15. The discrepancy between the two publications is material, particularly because it concerns the classification of offences as cognizable/non-cognizable, bailable/non-bailable and compoundable/non-compoundable. An inaccurate reproduction of a penal statute in a privately published law book has the potential to create confusion and may mislead the Bar, litigants and Courts regarding the true statutory position.

16. Since neither of the aforesaid private publications can, by itself, be treated as conclusive proof of the authentic statutory text, it would be appropriate, before attributing any error to either publisher or issuing any direction for correction, to verify Section 12 from the Act as originally enacted and published in the official Gazette.

17. The office is, therefore, directed to obtain and place on record an authenticated copy of the official Gazette containing the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019, particularly Section 12 thereof. Upon verification of the authentic statutory text, if any discrepancy is found in either of the aforesaid private publications, the matter shall be placed before the Court for passing an appropriate order regarding correction thereof in the existing and future editions/reprints.

Let this order be transmitted to Al-Qanoon Publishers, 2-Mozang Road, Lahore, for compliance.

JUDGE

Approved for Reporting

Zulfiqar