

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

**Cr. Bail Application No.S-327 of 2020**

DATE	ORDER WITH SIGNATURE OF JUDGE
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07.08.2020

Mr. Shahid Ahmed Shaikh, DPG IO/ASI Qaim Din Leghari of PS  
Bulri Shah Karim

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Applicant is present on interim bail granted by this Court on 13.04.2020 and today the same is fixed for confirmation or otherwise.

The allegation against the applicant, as per FIR, is that on 31.03.2020 police party headed by complainant SIP Shahid Hussain Memon during a snap checking at Sim Nali Bridge Jhang Katiar Link Road spotted one truck bearing registration No.TKL-473, which was coming from Mullakatiar side with two persons in it; on seeing the police party both said persons succeeded to escape in the standing crop while throwing shopper; one of them was identified as present applicant/accused; the police party secured the shopper and found it containing 300 mainpuries (Tabaco), the police party checked truck and recovered 20 white colour katas from the body of said truck, the said katas were found containing betel nuts (the material used for preparation of maimpuri), hence present FIR was lodged.

2. It is, *inter-alia*, contended by the applicant that he is innocent and has falsely been implicated by the police at the instance of his uncle; that no specific role has been attributed to him; that there is general allegation against him that he fled away while throwing shopper containing 300 sachets of mainpuries. He further submits that the alleged recovery has not been secured from his exclusive possession; that chemical report still has not been received to show that whether the recovered material is hazardous material or otherwise; that the punishment of the offence, under which he has been challaned does not fall within the prohibitory clause of Section 497 Cr.P.C, therefore, he prayed that his bail application may be confirmed on same terms and conditions, as already granted to him.

3. On the other hand learned DPG has strongly opposed this bail application on the ground that huge quantity of mainpuries has been recovered at the spot, which was thrown by

the present applicant and then fled away, therefore, according to him, applicant is not entitled for grant of bail.

4. Heard the applicant as well as learned DPG and perused the record. It is stated by the IO, who is present in Court, that case has been challaned and present applicant is no more required for further investigation. During course of arguments, I have specifically asked a question from the learned DPG that whether the chemical report is available in police file with him, on which he has replied in negative. Besides, as per police papers, it is yet to be determined at the time of trial, that whether the present applicant, at the time of incident, has thrown the material and escaped away from the spot or otherwise, which requires further inquiry. Apart from above the punishment for the offence under which the present applicant has been booked does not fall within the prohibitory clause of Section 497 Cr.PC, therefore, in such a situation grant of bail is a rule and refusal is an exception. There is no exceptional ground available on record to withhold the bail of applicant. There is nothing on record that present applicant is involved in other criminal cases, it appears that he is first offender and the case has already been challaned.

5. Under these circumstances, I found no justification to refuse this bail application. Accordingly, interim bail granted to applicant by this Court vide order dated 13.04.2020 is hereby confirmed on same terms and conditions. Applicant is directed to appear before the Trial Court and face the trial.

6. Needless to mention here that observations made herein above, if any, are tentative in nature, therefore, learned Trial Court shall not be influenced in any manner whatsoever while deciding the case on merits.

7. Before parting with the order, I would like to make it clear that during proceeding before Trial Court, if the applicant/accused misuses the bail, then Trial Court shall be competent to cancel the bail of the applicant without making any further reference to this Court.

This bail application stands disposed of in the above terms.

JUDGE

Sajjad Ali Jessar