

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

Cr. Bail Application No. S- 606 of 2020

DATED	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case.

17.08.2020

Mr. Rao Faisal, Advocate for applicant.

Ms. Sobia Bhatti, Asst. Prosecutor General for State.

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ABDUL MAALIK GADDI, J- Having remained unsuccessful in obtaining his release on bail from the trial Court in Crime No.56 of 2020 registered under section 8 of Sindh Prohibition of Preparation Manufacturing Storage Sale & Use of Gutka, Mainpuri Act, 2019, at PS Town Mirpurkhas, now the applicant Ali Hassan s/o Asghar Ali is seeking his release on bail in the said crime through this bail application.

2. Precisely, the allegation against the applicant is that on 06.06.2020, during patrolling at Mehboob Hotel Market Chowk, the complainant along with his sub-ordinate staff apprehended the applicant / accused and recovered 40 packets of Safeena, each packet containing 105 sachets total 4200 sachets of Safeena, four packets of JND each packet containing 110 sachets, total 440 sachets, two packets of Adab Gutka, each packet containing 100 sachets total 200 sachets; therefore, lodged instant F.I.R on behalf of State.

3. Learned counsel for the applicant / accused has contended that applicant is innocent and has falsely been implicated in this case; that despite prior spy information the complainant 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 applicant 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 applicant is entitled for the grant of post-arrest bail.

4. Conversely, learned A.P.G appearing on behalf of State has opposed this application on the ground that applicant was found in

possession of huge quantity of Mainpuri which could not have been easily foisted upon him; therefore, the applicant is not entitled for bail.

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

6. It appears from the record that case has been challaned and applicant / accused is no more required for further investigation. It is an admitted fact that incident took place at Mehboob Hotel Market Chowk where, as per F.I.R, shops and houses were located but despite of the fact the complainant did not bother to associate any independent witness from the locality to witness the recovery proceeding. Nothing on record to show that applicant is previously convicted. 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 is kept in judicial custody for an indefinite period.

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

8. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the time of.

9. It is made clear that in case applicant/accused in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice along with his surety.

JUDGE

****Hafiz Fahad****