

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

Criminal Bail Application No.S-766 of 2020

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case

21.09.2020.

Mr. Ayatullah Khowaja, Advocate for applicant.  
Ms. Safa Hisbani, Assistant P.G for the State.

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**RASHIDA ASAD, J:** Through this application, the applicant Revachand @ Baboo seeks post-arrest bail in Crime No.126/2020 registered at P.S Umerkot City for offences under sections 4, 5, 8 Sindh Prohibition of Preparation, Manufacturing, Storing, Sale and Use of Gutka and Manpuri Act, 2019, after dismissal of his previous bail application by the Court of Sessions Judge, Umerkot vide order dated 05.08.2020.

2. Brief facts of the case are that on 25.07.2020 at 1050 hours complainant SIP Muhammad Urs Bajeer of P.S Umerkot City during patrolling apprehended the applicant from Vehro bye-pass road and recovered 125 packets of Gutka of different brands. According to prosecution, the recovered substance is injurious to human health.

3. It is, inter alia, contended by learned Counsel for the applicant that the applicant is innocent and has been falsely implicated in this case by the complainant with ulterior motives; that the applicant is poor person and runs his fruit cart at Moti Chowk, Umerkot Town peacefully to earn his livelihood; that the applicant has neither remained involved in any illegal, unlawful or criminal activity ever, or he has any concern with the instant F.I.R.; case property has been foisted upon the applicant; that there is violation of section 103 Cr.P.C; that the matter requires further inquiry ; and, that the offences with which the applicant is charged carry three (03) years punishment and do not fall within the prohibitory clause of section 497, Cr.P.C. Lastly he prayed for grant of bail to the applicant.

4. Learned Assistant Prosecutor General Sindh opposed the grant of bail to the applicant.

5. I have considered submissions of parties and perused material available on record. The sections with which the applicant is charged are notailable but their applicability to the facts and circumstances of the case could only be determined at trial. The evidence of the police officials is required to be scrutinized minutely at the time of trial, whether the alleged incident has taken place in a fashion as stated in the F.I.R. or not. Admittedly, there is no independent witness of the incident. Moreover, a mistaken relief of bail may be repaired by convicting the accused, if proved guilty but no proper reparation can be offered from his unjustified incarceration, albeit, his acquittal in the long run. Reliance is placed on the case of ZAIGHAM ASHRAF versus The STATE and others (2016 SCMR 18). Applicant is behind the bars since 25.07.2020 and still trial has not been commenced. Applicant is no more required for any purpose of investigation nor the prosecution has claimed any exceptional circumstances, which would justify keeping the applicant behind the bars for an indefinite period. All the P.Ws are police officials, hence there is no question of tampering the evidence, therefore, keeping in view the peculiar circumstances of instant case, I am of the view that scale tilts in favour of the applicant for grant of bail as no useful purpose is likely to be served with further detention of applicant pending determination of his guilt. Under these circumstances, a case for release of the applicant on bail on point of further inquiry obviously is made out.

6. In view of above, the bail application is allowed and the applicant is granted bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Fifty thousand ) and P.R Bond in the like amount to the satisfaction of trial court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial court while deciding the case of applicant on merits.

JUDGE