

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

Cr.Bail.Appl.No.S- 1434 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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17.01.2020.

Mr. Rao Faisal Ali, Advocate for applicant alongwith applicant.
Ms. Rameshan Oad, A.P.G. for the State.

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ABDUL MAALIK GADDI, J: Applicant / accused is present on interim bail granted to him by this court vide order dated 23.12.2019. Today this bail application is fixed for confirmation or otherwise.

2. The allegations against the applicant / accused are that on 05.10.2019 at 2330 hours HC Niaz Muhammad Solangi of P.S Shadi Pali alongwith his subordinate staff during patrolling apprehended him from 60-Mile stop Umerkot to Mirpurkhas Road and recovered total 10500 sachets of Safina Gutkas from his possession which are poisonous and noxious to health. Hence he was booked in the above stated crime.

3. Learned counsel for applicant / accused argued that the applicant is innocent and has been falsely implicated in this case; that nothing was recovered from the possession of applicant / accused and 10500 Safina Ghutka puries have been foisted upon him; that initially the FIR was lodged u/s 269 & 270 PPC those were bailable therefore, the learned trial court granted bail tom him but after insertion of Section 337-J PPC in the challan sheet that was become non-bailable, therefore, applicant filed bail application before the trial court for grant of bail in his favour but the same was rejected through impugned order; that the case has been challaned and applicant / accused is no more required for investigation.

4. Learned A.P.G. very frankly has not supported the bail order passed by trial court on the ground that out of 10500 Safina Ghutka puries allegedly recoved from the possession of applicant, only 10 purries were sent to the chemical examiner for examination and report.

5. Heard arguments. Perused record.

6. It is an admitted fact that case has been challaned and applicant / accused is no more required for investigation. It appears from the record that in this case initially the FIR was registered u/s 269 & 270 PPC at P.S Shadi Pali. Being bailable offences, the trial Magistrate granted bail to the applicant however, when challan was submitted Section 337-J PPC has been inserted but as far as applicability of Section 337-J PPC in the case in hand is concerned, though the same is non-bailable however alleged hazardous / poisonous substance allegedly recovered from the applicant was not administered to anybody at the hands of applicant. In this back drop it cannot be stated that the applicant is responsible for causing heart through administration of poisonous material to anybody. Nothing on record that the applicant was selling the said Safina Ghutkas as no evidence of any purchaser is on record. It is also admitted fact though 10500 Safina Ghutka were alleged to have been recovered from the possession of applicant / accused but out of them only 10 purries were sent to the chemical examiner besides complainant and I.O. of the case is same. Since the learned A.P.G. has also recorded her no objection therefore, finding no way, the instant bail application is hereby allowed and interim pre-arrest bail already granted to the applicant on 23.12.2019 is hereby confirmed on same terms and conditions, with direction to the applicant to attend the trial court on each and every date of hearing and face the trial without fail.

7. The observations made herein above are tentative in nature and shall not prejudice the case of either party at the time of trial.

JUDGE