

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Cr. Bail Application No. 2033 of 2021

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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For hearing of bail application.

**23<sup>rd</sup> November, 2021**

Mr. K. Jehangir, Advocate for applicant.  
Mr. Abrar Ali Khichi, Addl.P.G.

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Omar Sial, J: Shahid Hussain has sought post arrest bail in crime number 490 of 2021 registered under sections 3, 4, 5, 6 and 8 of the The Sindh Prohibition of Preparation, Manufacturing, Storage, Use and Sale of Gutka and Manpuri Act, 2019 at Paposh Nagar police station. Earlier, his application seeking bail was dismissed on 14-10-2021 by the learned 7<sup>th</sup> Additional Sessions Judge, Karachi Central.

2. A background to the case is that on 10-9-2021 a police party led by A.S.I. Rao Muhammad Aslam was on normal patrol duty when it saw a taxi that looked suspicious to them. The taxi, which was being driven by the applicant, was stopped and searched. 110 kgs of *challiya* (betel nuts), 40 packets of gutka and some limestone was found to be in his possession.

3. I have heard the learned counsel for the applicant as well as the learned Additional Prosecutor General.

4. Section 3 of the Act of 2019 prohibits the preparation and manufacture of gutka and manpuri; section 4 prohibits possession, sale, distribution and delivery of gutka and manpuri; section 5 prohibits the import, export, transportation and dispatch of manpuri/gutka whereas section 6 prohibits the ownership, management, operation and control of any premises, place, equipment or machinery for the purpose or manufacture or production of gutka, manpuri and its derivatives. Section 8 of the Act of 2019, prescribes a punishment of 1 to 3 years and a minimum fine of Rs. 200,000 for first time offenders. The learned APG confirmed that the applicant does not have a previous crime record and thus the provisions of section 8(2) of the Act of 2019, which carry a more stringent

punishment are not attracted in the present case. The offence with which the applicant is charged falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping the principles enunciated by the Honorable Supreme Court in the Tariq Bashir and 5 others vs The State (PLD 1995 SC 34) in mind, I do not see any exceptional or extraordinary grounds to deny the applicant bail.

5. The prosecution case is that 110 kgs of supari (apart from 40 packets of mawa gutka and limestone) were recovered from the applicant. Prima facie it appears that betelnuts and limestone may be ingredients present in a gutka/manpuri mixture, however it is yet to be determined whether possessing these ingredients on their own constitute an offence under the Act of 2019. Similarly, prima facie, out of all the restrictions contained in section 3 to 6 of the Act of 2019, the police may have evidence of possession and transportation whereas evidence in respect of the other prohibitions requires further inquiry.

6. Investigation against the applicant is complete and all evidence which the prosecution relies upon is already in the possession of the police. Tampering with evidence by the applicant therefore can be ruled out. No purpose will be served by keeping the applicant incarcerated pending trial. In view of the foregoing, I am inclined to take a lenient view and admit the applicant to post arrest bail.

7. Above are the reasons for the short order of 19-11-2021.

JUDGE