

**IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 1491 of 2019

Applicant : Abdul Salam Gaba  
through Mr. Sajjad Gul Khatri, Advocate.

Respondent : The State  
through Ms. Rahat Ahsan, Addl.P.G.

**ORDER**

Omar Sial, J: The applicant Abdul Salam Gaba has sought pre-arrest bail in crime number 255 of 2019 registered under sections 269,270,273, 337-J and 34 P.P.C at Azizabad police Station. Earlier he has sought pre-arrest bail from the learned IInd Additional Sessions Judge, Karachi (Central), however, the same was dismissed vide order dated 17.10.2019.

2. Facts relevant for the present purpose are that the police party was on normal patrol duty when it was informed that a person (who subsequently was identified as the applicant) was selling Gutka. The police party reached the spot and apprehended the applicant and allegedly recovered 100 packets of Safina Gutka and two packets of Ratna.

3. I have heard the learned counsel for the applicant as well as the learned Addl.P.G.

4. The offences under sections 269,270 and 273 PPC are all bailable. As regards the alleged offence under section 337-J PPC there is no chemical report which would show that the material seized was in fact a poison or intoxicating, unwholesome or stupefying material. Sufficient opportunity has been given to the State to file such a report; however, to-date none is on record. There is admittedly no independent witness cited and it further appears that the material seized may also not have been sealed on the spot. This fact however will be decided at trial after evidence is led. Learned counsel for the applicant has vehemently argued that the sole reason to file a case against the applicant is that the police to show its efficiency in view of the recent order of this court. According to him, registration of the F.I.R. is an outcome of the malafide on the part of the police. At this preliminary stage and in absence of the chemical report, the allegation of malafide cannot be conclusively ruled out.

5. In view of the above, the case of the applicant appears to be one of further inquiry.

6. Above are the reasons for my short order of 09.12.2019 in terms of which the interim pre-arrest bail granted to the applicant on 21.10.2019 was confirmed on the same terms and conditions.

**JUDGE**