

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Applications No. 1244 & 1245 of 2023

Applicant in Cr. Bail : Farhanullah s/o. Badshah, through Ms. Tabasum
Application No. **1244/2023** Sultana and Ms. Zoya Parveen Sheikh, advocates

Applicant in Cr. Bail : Najamuddin s/o. Tajuddin, through Ms. Tabasum
Application No. **1245/2023** Sultana and Ms. Zoya Parveen Sheikh, advocates

Respondent : The State, through Mr. Hussain Bakhsh Baloch,
Additional Prosecutor General.

Date of hearing : 26.06.2023
Date of order : 26.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- By this common order, I intend to dispose of above listed both criminal bail applications as the same, being arisen out of F.I.R. No. 564/2023, registered at P.S. SSHIA, Karachi under Section 8(1) of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Main Puri Act, 2019 (“**the Act**”), have been heard by me together.

2. Applicants/accused Farhanullah s/o. Badshah and Najamuddin s/o. Tajuddin, respectively, through listed Cr. Bail Applications seek post-arrest bail in aforesaid crime. Earlier their applications for the same relief bearing No. 2262 & 2218 of 2023 were dismissed by the Court of Sessions Judge, Malir Karachi vide orders, dated 02.06.2023.

2. As per F.I.R., on 17.05.2023 at 08:30 p.m., S.I.P. Akhtar Abbas of P.S. SSHIA, Karachi arrested the applicants and co-accused Ibrahim, Shahidullah and Muhammad Tariq from a house situated near Al-Madina Kiryana Store, Allah Bakhsh Village, Scheme No. 33, S.I.T.E. Superhighway, Karachi on being found in possession of nine sacks of Chhalia weighting 210 kilograms, 10 packets of tobacco weighting ten kilograms, seven packets of powder weighting three kilograms, different types of tobacco weighing fifteen kilograms, one gallon containing acidic water weighing twenty five kilograms, Gutka wrappers weighing forty kilograms, prepared Gutka Mawa weighing fourteen kilograms, for that they were booked in the aforesaid Crime.

3. After hearing the learned counsel for the applicants as well as learned Addl. P.G. and perusing the material available on record it appears that the alleged offence of possessing, offer for sale, distribution or delivery on any terms whatsoever, importing, exporting or transporting and dispatching any “derivative”, “Gutka and “Manpuri”, as defined in clauses (iv) and (viii) of the section 2 of the Act is punishable under section 8(1) of the Act with imprisonment up to three years and not less than one year; hence, the same does not fall within the prohibitory clause of section 497, Cr.P.C.

4. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception. It further appears that the applicants are confined in judicial custody since the day of their arrest, whereas police has already submitted challan against them; hence, their physical custody is not required by the police for further investigation. Accordingly, the instant applications are allowed and in result thereof the applicants are admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by them solvent surety in the sum of Rs.200,000/- (*Rupees Two Lac Only*) each and P.R. Bond for like amount to the satisfaction of trial Court.

5. Needless to mention here that in case the applicant(s) misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him requisite notice, as per rules.

JUDGE

Athar Zai