

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 1224 of 2023**

Applicant : Taj Muhammad s/o. Chutta Khan, through  
Mr. Syed Ahmed Ali Shah, Advocate.

Respondent : The State, through Mr. Zahoor Shah, Additional  
Prosecutor General.

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Date of hearing : 22.06.2023  
Date of order : 22.06.2023  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Taj Muhammad s/o. Chutta Khan seeks post-arrest bail in Crime No. 567 of 2023 registered at P.S. Sachal, Karachi under sections 337-J, 34, P.P.C. read with Section 8(1) of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Main Puri Act, 2019 (“**the Act**”). His earlier application for the same relief bearing No. 2107 of 2023 was dismissed by the learned Addl. Sessions Judge-IV, Malir Karachi, vide order dated 03.06.2023.

2. As per F.I.R., on 16.05.2023 at 05:30 a.m., S.I.P. Javed Arain of P.S. Sachal, Karachi arrested the applicant from a house in Katchi Abaadi, Ramzan Gabol Goth, Sachal, Karachi on being found in possession of six plastic tubs with Chhalia (چھالیہ), one iron tub with Chhalia (چھالیہ), four empty wrapper bags of Gutka, one small sack, one acid cane of one kilogram, two plastic large drums full of Chhalia (چھالیہ), one sack of 25 kilograms Chhalia (چھالیہ). Total weight of the recovered Chhalia (چھالیہ) was found to be 750 kilograms, for that he was booked in the aforesaid Crime.

3. Heard, record perused.

4. After hearing the learned counsel for the applicant as well as learned Addl. P.G. and perusing the material available on record it appears that as per report of Chemical examiner, the alleged material is “*hazardous*” and not fit for “*human consumption*”. Section 337-J, P.P.C. relates to causing hurt by mean of a poison.

So far application thereof in the instant case is concerned, it is yet to be determined as to whether the case of applicant falls within the purview of said provisions of the P.P.C. or not, which is to be decided by the trial Court after full-fledged trial. Hence, I am of the considered view that the guilt of the applicant under the said penal provision of the P.P.C. requires further inquiry.

5. Under sections 8(1) of the Act, 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.

6. 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 applicant is confined in judicial custody since the day of his arrest, whereas police has already submitted challan against him; hence, his physical custody is not required by the police for further investigation. Accordingly, the instant application is allowed and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs.100,000/- (Rupees Lac Only) and P.R. Bond for like amount to the satisfaction of trial Court.

7. Needless to mention here that in case the applicant 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