

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

Cr. Bail Application No.S-845 of 2023

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
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1. *For orders on office objection.*

2. *For hearing of main case.*

15.09.2023.

Mr. Shakir Nawaz Shar, Advocate for the Applicants.

Mr. Siraj Ahmed Bijarani, Assistant P.G.

**ORDER**

ARSHAD HUSSAIN KHAN, J.- Through this bail application under Section 497 Cr.P.C, applicants have sought post-arrest bail in Crime No.246 of 2023 registered at P.S A-Section, Tando Allahyar, for the offence under Section 8(i) of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Mainpuri Act, 2019. Their same plea has been rejected by the learned trial Court vide order dated 01.08.2023.

2. The facts of the case in brief are that on 27.07.2023, complainant SIP Abid Hussain Zardari while patrolling with his subordinate staff reached near Raah Hotel and received spy information that a Toyota Corolla Car bearing Registration No.AUV-629 was coming from Mirpurkhas in which two persons were sitting and were in possession of Safina Gutka. On such information, they reached to the pointed place at 2100 hours and apprehended Chanesar and Mukhtiar, the present applicants. On further inquiry, the police party recovered 350 packets of Safina Gutka, containing 38500 Sachets and prepared such Mashirnama of arrest and recovery in presence of Mashirs namely HC Ranjho Khan and PC Imran Ali and then brought the applicants and case property at P.S and lodged F.I.R.

3. Learned Counsel for the applicants has contended that the applicants have been falsely implicated in this case by the Police to show their efficiency to their higher officers; that no any

independent person was cited as witness / mashir; that the alleged recovery is foisted upon the applicants; that the investigation has been completed and the applicants are no more required for further investigation; that the offence with which the applicants are charged does not fall within the prohibitory clause of Section 497 Cr.P.C. He; therefore, prays for grant of bail to the applicants. In support of his arguments, he has relied upon the cases of FAHEEM AHMED v. The STATE (2020 YLR 1354), MUHAMMAD EIDAN v. The STATE (2022 P.Cr.LJ 143), and ABDUL QAHIR v. The STATE (2023 YLR Note 14).

4. In contra, learned A.P.G has argued that a huge quantity of Safina Gutka was recovered from a vehicle which was in control and possession of the applicants; that no enmity against the Police is alleged by the applicants; that the Gutka recovered from the applicants is dangerous for the lives of human being which if not restrained will spread in future; hence, he submits that this bail application may be dismissed.

5. Heard learned Counsel for the applicants as well as learned A.P.G and perused the record with their assistance.

6. After perusal of record it reflects that a huge quantity of Safina Gutka i.e. 350 Packets containing 38500 Sachets was recovered from the exclusive possession of the applicants from Toyota Corolla Car Registration No.AUV-629 while they were transporting it, which was in their control and possession and such a huge quantity of Gutka could not be foisted upon the applicants particularly when no animosity or ill-will against the Police is alleged by the applicants; The P.Ws have supported the version of the complainant in their statements under Section 161 Cr.P.C. The report of Chemical Analyst with regard to Gutka has also come in positive and there is sufficient material available with the prosecution to connect the applicants with this heinous crime. In such situation, the bail cannot be claimed as a right more particularly in the cases involving huge quantity of such items which is dangerous than narcotics as it is known to cause a major life threatening diseases, such as, mouth cancer and other

serious diseases. This crime against the society is affecting the public at large day by day and if it is not curbed immediately it will affect the lives of our children in future. Sufficient material is available with the prosecution which connects the applicants with the offence.

7. In the circumstances, this bail application merits no consideration and is hereby dismissed. However, learned trial Court shall proceed with the case expeditiously and decide it preferably within 45 (forty five) days from the date of receipt of this order. In case, the prosecution fails to procure its witnesses and trial is not concluded within above stipulated time, the applicants shall be at liberty to file fresh bail application before the trial Court, which, if filed, shall be decided by the trial Court on its own merits.

8. Needless to say, the observations made in this order are of a tentative nature and only for the purposes of this bail application. Nothing herein shall affect the determination of the facts at the trial or influence the Trial Court in reaching its decision on the merits of the case.

*JUDGE*

Shahid

The learned D.P.G referring to photo stat of order dated 07.11.2019, passed by a learned single bench of this court, in Crl. Bail Application No.S-1124 of 2019, declining the bail to the accused in that case by dismissing his bail application, prays for dismissal of the instant bail application.