

# THE HIGH COURT OF SINDH KARACHI

## Spl. Cr. Bail Application No. 39 of 2024

### For hearing of Bail Application.

Applicants/Accused : Siraj Uddin son of Najam Uddin and Riaz Ahmed son of Meer Muhammad through Mr. Muhammad Umsan Malik, Advocate.

Complainant/State : Naib Subedar Habib Sultan, PCG, through Ms. Jamila Siraj, Spl. Prosecutor, Pakistan Coast Guard alongwith Muhammad Imran, Departmental Representative, who is present in Court.

Ms. Alizeh Bashir, Assistant Attorney General for Pakistan.

Date of hearing : 13-05-2024

Date of order : 13-05-2024

Crime No. 1004/2024 dated 05-03-2024  
U/s: 2(s) and 16 of the Customs Act, 1969  
Punishable under Clauses (8) & (89) of S. 156 & 157 of the Act ibid  
P.S. Pakistan Coast Guard, Korangi.

## ORDER

Adnan Iqbal Chaudhry J. - The Applicants seek post-arrest bail in the aforesaid crime after the same has been denied by the Special Judge (Customs, Taxation & Anti-Smuggling) Karachi *vide* order dated 28-03-2024.

2. As per the FIR, lodged on 05-03-2024, a team of the Pakistan Coast Guard was checking vehicles at the Superhighway coming into Karachi from Hyderabad; that the vehicle driven by the Applicant No.1 with the Applicant No.2 as his companion was searched in exercise of powers under section 164 of the Customs Act, 1969, which revealed that in the boot of said vehicle, so also lying on the backseat thereof, were packets of Indian origin Gutka totaling 517; that since the goods appeared to be smuggled goods, the Applicants were arrested and the goods were seized.

3. Heard learned counsel and perused the record.

4. The allegation is that the Gutka seized from the vehicle driven by the Applicants is of Indian origin and hence presumed to be smuggled. Per the I.O. that presumption is drawn from the fact that it was printed on the packets of the Gutka that it was manufactured in India. However, apart from such bald allegation in the FIR, there is nothing thus far to demonstrate that the Gutka seized was of Indian origin. On the query whether the seized Gutka had been sent for a laboratory test, learned Special Prosecutor states that it has not. She states that only the vehicle from which the Gutka recovered has been sent for forensic examination.

5. The investigation thus far also does not reveal the point from where the Gutka was allegedly smuggled into Pakistan, the person from whom the Applicants had purchased the same, and the person to whom the Applicants intended to sell the same. No sale proceeds of alleged smuggling has been recovered from the Applicants.

6. In view of the foregoing, the case against the Applicants is one of further enquiry falling within the ambit of sub-section (2) of section 497 CrPC. Allegedly, the value of the smuggled goods is Rs. 571,900/- and thus the offences alleged also do not fall within the prohibitory clause of section 497 CrPC. Therefore, the Applicants are granted post-arrest bail in the aforesaid crime subject to furnishing solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand only) each alongwith P.R. Bond in like amount to the satisfaction of the trial court.

Needless to state that the observations above are tentative and shall not be construed to prejudice the case of either side at trial.

**JUDGE**

SHABAN\*