

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

1st Criminal Bail Application No.S-49 of 2020

Sadaruddin Domki and another

V/S

The State

Applicants: Through Mr. Habibullah G. Ghouri,
Advocate

State: Through Mr. Ali Anwar Kandhro,
Additional Prosecutor General.

Date of Hearing: 13.03.2020

Date of Decision: 13.03.2020

ORDER

ZAFAR AHMED RAJPUT, J.- Having rejected their earlier Criminal Bail Application bearing No.47/2020 by the learned Vth Additional Sessions Judge, Shikarpur vide order dated 01.02.2020, applicants Sadaruddin son of Khair Bux Domki and Bakhtiar son of Baloch Khan Lashari through instant Criminal Bail Application seek post arrest bail in Crime No.125/2019, registered at Police Station Stuart Gang, under section 337-J P.P.C.

2. Briefly stated facts of the case are that on 13.11.2019 ASI Hidayatullah Marfani of Police Station Stuart Ganj lodged aforementioned F.I.R., stating therein that on the said day, while he was on patrolling duty in the area alongwith subordinate staff, he received spy information that one Truck bearing No.TAK-481 carrying Z21 Gutka and Suparies in huge quantity was coming from Quetta, hence he started snap checking at Shikarpur Bypass near Manchar Shah graveyard leading through Quetta- Jacobabad and at about 11:30 he saw the alleged truck, which was got stopped; there were two persons in the truck, one was

driver and the other was sitting beside him, who disclosed their names as Sadaruddin and Bakhtiar; they made search of the truck and found 10 sacks of Z-Gold Gutka and 112 sacks filled with small suparis, each sack of supari weighed 20 KG and total weighed as 56 mound; hence both the above named accused persons were arrested and brought at the Police Station where F.I.R. was registered.

3. Learned counsel for the applicants-accused contends that the applicants are innocent and have falsely been implicated in this case; that the applicants have no concern with the alleged recovery of the said articles as well as vehicle; that the guilt of the accused with regard to the alleged commission of offence under section 337-J P.P.C. requires further enquiry, hence the applicants are entitled to the grant of bail.

4. On the other hand, learned Additional Prosecutor General maintains that the recovery of huge quantity of Gutka and Betel Nuts has been made by the police officials against whom no enmity has been claimed by the applicants and the same are injurious to the health of general public, hence they are not entitled to the concession of grant of bail.

5. Heard learned counsel for the applicants, learned Additional Prosecutor General and peruse the material available on record with their assistance. It is an admitted position that police recovered 112 bags of small Betel Nuts / Suparis, which item is of general use and cannot be termed as an article injurious to health. So far as the recovery of 10 bags of Z12 Gutka is concerned, it is an admitted position that the same were not weighed at the spot, even it is claimed that out of 10 bags of said Gutka, 5 bags from each bag were taken out and sealed separately for analysis, but the weight of sample is not mentioned either in the

mashirnama or in the F.I.R. So much so, the same does not reflect from report of Government Public Health Food Analysis Laboratory, Sukkur at Rohri. It appears from the perusal of report of Government Public Analyst that the samples were found by him as not recommended for human consumption, within the meaning of section (5) of Pure Food Ordinance, 1960 and also contravene the provision of Rule (11) of Sindh Pure Food Rules, 1965. However, no method of analysis has been described in the report. Hence it is yet to be seen if the ingredients of Section 337-J P.P.C. are available in the prosecution case, which can only be decided after full-fledged trial of the applicants. Therefore, the applicants-accused are admitted to bail subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousands only) each and P.R.Bonds in the like amount to the satisfaction of the learned Trial Court.

^{6.} Needless to mention here that observations made hereinabove are tentative in nature and shall not influence the Trial Court for deciding the case of the applicants on merits; the Trial Court however, is at liberty to cancel the bail of the applicants-accused in case they misuse the concession of bail after giving them requisite notice.

The Criminal Bail Application stands disposed of.


JUDGE