

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

Cr. Bail Application No.S-1359 of 2024

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| <b>DATE</b> | <b>ORDER WITH SIGNATURE OF JUDGE(S)</b> |
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1. For orders on office objections.
2. For hearing of main case.

Applicant : Muhammad Nadeem S/o Muhammad Iqbal  
Niazi, through Mr. Haq Nawaz Jamari,  
Advocate.

The State : Through Ms. Rameshan Oad,  
Assistant P.G.

Date of hearing : 10.02.2025.

Date of Order : 21.02.2025.

**ORDER**

**Abdul Hamid Bhurgri, J.-** Being un-successful in obtaining his release on bail from the Trial Court in Crime No.149 of 2024 registered at P.S Tando Ghulam Ali District Badin for offence under Section 8 of the Sindh Prohibition of Preparation, Manufacturing, Storage, Sale & Use of Gutka and Mainpuri Act, 2019, the applicant has sought his release on bail through this bail application.

2. The prosecution case is that on 08.10.2024 at 1630 hours the police party of P.S Tando Ghulam Ali headed by ASI Javed Ali Khoso were on patrolling duty in their jurisdiction and when they reached at Dasti Link Road they started snap checking of the vehicles and during checking they caught hold blue Mazda Truck bearing Registration No.JZ-7041 coming from Kapri Mari. On search of vehicle, they found 105 sacks containing Gutka and Mainpuris, each sack contained 10 KGs, total 1050 KGs. The applicant was arrested and property was secured. Mashirnama of arrest and recovery was prepared in presence of police mashirs and thereafter applicant alongwith case property was brought at PS where present FIR was lodged against him on behalf of the State.

3. Learned Counsel for the applicant has contended that applicant is innocent and he has falsely been implicated in this case with ulterior motives; that alleged offence is punishable for imprisonment up to 03 years, as such, does not fall within prohibitory clause of Section 497 Cr.P.C; that applicant is in custody since his arrest without progress in the trial. He, therefore, has prayed that applicant may be admitted on bail for which he is ready to furnish surety.

4. Learned APG has recorded no objection for grant of bail mainly on the ground that offence does not fall within the prohibitory clause of Section 497 Cr.P.C.

5. I have heard the learned Counsel for applicant as well as learned APG and perused the material available on the record.

6. Admittedly, the alleged recovery has been effected from busy place where so many persons were available, but the complainant has failed to associate any independent/impartial person of the locality to witness the alleged recovery. The alleged offence carries punishment for imprisonment which may extend upto 03 years but may not be less than 01 year with fine of Rupees Two Lacs. It is settled law that while deciding the question of bail lesser sentence is to be considered. The alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C. In such like cases grant of bail is right and its refusal is exception. Reliance in this regard is placed upon the dictum laid down by the Honourable Supreme Court in case of MUHAMMAD TANVEER v. The STATE & another (PLD 2017 Supreme Court 733).

“We are shocked and disturbed to observe that in cases of this nature, not falling within the prohibition contained in section 497, Cr.P.C. invariably grant of bail is refused on flimsy grounds. This practice should come to an end because the public, particularly accused persons charged for such offences are unnecessarily burdened with extra expenditure and this Court is heavily taxed because leave petitions in hundreds are piling up in this Court and the diary of the Court is congested with such like petitions. This phenomenon is growing tremendously, thus, cannot be lightly ignored as precious time of the Court is wasted in disposal of such

petitions. This Court is purely a constitutional Court to deal with intricate questions of law and Constitution and to lay down guiding principle for the Courts of the country where law points require interpretation.”

7. Further, the challan has been submitted and applicant is behind the bars without any useful purpose and besides he is no more required for further investigation. There is also no complaint of such nature against him in past. All the witnesses are police officials and their testimony is yet to be determined at the trial whether truthful or false, since then applicants’ case falls within the ambit of sub-section (2) to Section 497 Cr.P.C.

8. In view of what has been stated above, applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) and P.R Bond in the like amount to the satisfaction of the learned Trial Court.

9. It is, however, categorically clarified that the observations articulated herein are tentative and shall neither prejudice nor preempt the merits of the case at the stage of trial.

Accordingly, the bail application stands disposed of.

JUDGE

Shahid