

# THE HIGH COURT OF SINDH AT KARACHI

## Special Criminal Bail Application No. 84 of 2025

[Haroon Khan & another v. The State]

Applicants : (i) Haroon Khan son of Raham Gul  
(ii) Aftab Aalim son of Sher Aalim  
Through Ms. Dil Khurram Shaheen,  
Advocate

Respondent : The State, through Mr. Zulfiqar Ali Arain,  
Advocate.

Date of hearing : 24-04-2025

Date of decision : 24-04-2025

*FIR No. 02/2024-25/364 dated 07.02.2025  
U/s: 2(s), (6) 18 of the Customs Act, 1969 r/w  
SRO 566(1)/2025 dated 05.06.2005 r/w section  
3(1) of the Import & Export Control Act, 156(1) &  
157(1) & (2) of the Customs Act, 1969 r/w Section 3(3)  
Import & Export control Act, 1950, violation of Import  
Policy Order 2022 r/w SRO 499(I)/2009 dated 13.06.2009  
& SRO 1619(I)/2024 dated 03.10.2024*

## ORDER

**Adnan Iqbal Chaudhry J.** - The Applicants seek post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-II), Karachi by order dated 06.03.2025.

2. Heard learned counsel and perused the record.

3. Lodged on 07.02.2025, the FIR is that a tip was received on 05.02.2025 that three trucks carrying Indian-origin gutka and betel nuts would cross into Sindh; that on 05.02.2025 at 02:00 a.m., a team of the Anti-Smuggling Unit-II, Larkana along with Civil Intelligence Agency and Excise & Taxation Department Kashmore, intercepted the said three trucks; that a search revealed that the trucks were loaded with bags containing 'Safina Gutka (Made in India)', 'Royal King Gutka (Made in India)', 'Crushed betel nuts (Made in India)' and 'lime powder (local chuna)'; that the gutka and betel nuts were

apparently smuggled items, hence seized; that Applicant No.1 (Haroon Khan) was arrested as the driver of truck No. Z-6195; that Applicant No.2 (Aftab Aalim) was arrested as the driver of truck No. C-1341; whereas the driver of the third truck is shown as an absconder. Both Applicants were booked for the offence of smuggling as defined in section 2(s) of the Customs Act, 1969, punishable under clause 89 of section 156(1) thereof.

4. Learned counsel for the Applicants submits that the Applicants are not owner of the goods; that they were hired by one Wali Jan at Punjab as drivers to transport bags of lime powder and were also provided with bilties for such goods; that they had no knowledge that some of the bags contained gutka and betel nuts. On the other hand, learned State counsel submits that the bilties turned out to be fake; that gutka is a prohibited item and betel nuts are restricted items; and in any case, the packing of the gutka and betel nuts reads 'Made in India' and therefore those could not have been lawfully imported into Pakistan.

5. Nevertheless, the relevant facts are that the Applicants do not claim to be owners of the goods; that majority bags seized from the trucks contained lime powder; and that the bags containing gutka and crushed betel nuts were randomly placed beside the bags of lime powder. Though it is submitted by State counsel that issuer of the bilties is non-existent, that is not reflected in the challan. In any case, the investigation has yet to reveal the owner of the goods and the real owner of the trucks as the documents of the trucks are allegedly fake. Therefore, there is some force in the submission that the Applicants were merely hired as drivers to transport bags of lime powder without knowledge that some of the bags also contained Indian-origin gutka and betel nuts. In other words, the case against the Applicants is of further inquiry into their guilt, falling within the ambit of sub-section (2) of section 497 Cr.P.C.

6. The other aspect of the case is that the description of goods in row No.8 of the FIR does not clarify which goods were seized from which truck. The duty and taxes assessed on the seized goods also combines the quantity of goods seized from all three trucks even though each Applicant can only be held responsible for the quantity of goods seized from the truck driven by him.

7. The maximum imprisonment prescribed by clause 89 of section 156(1) of the Customs Act, 1969 does not exceed six years. Therefore, the offence alleged against the Applicants does not fall within the prohibitory clause of section 497 Cr.P.C.

8. In view of the foregoing, the Applicants Haroon Khan son of Raham Gul and Aftab Aalim son of Sher Aalim are granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 300,000/- [Rupees Three Hundred Thousand only] each alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

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

**JUDGE**

Karachi  
Dated: 24-04-2025

\*PA/SADAM