

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. B.A. No.198 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

FOR HEARING OF BAIL APPLICATION

13.02.2025

Mr. Muhammad Shafqat, advocate for applicant a/w applicant
Mr. Mumtaz Ali Shah, Asstt. P.G. a/w PI Manzoor Ahmed Abbasi PS
Gadap City, District Malir, Karachi

-X-X-X-X-X-X-

FIR No.47/2025 was registered at PS Gadap City District Malir, Karachi on 14.01.2025 at about 07:30 a.m., while the date of incident was mentioned in the FIR on the same date at 04:30 a.m. Such FIR was registered under Sections 3/6/8(i) of Sindh Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019.

The contents of the FIR briefly stated that the applicant along with his two brothers who are the co-accused in FIR namely Abdullah and Uzair prepared Gutka and Mawa at factory and sale the same. On spy information, the Police conducted raid, as the accused party were escaped whilst the recovery of machinery as well as contraband material were affected and after completing codal formalities, the interim challan is submitted and the final challan is in process due to await of the chemical examination report.

Learned counsel for applicant submits that the learned trial Court passed the order on 21.01.2025, in which declined the bail of present applicant, while allowed the bail to co-accused namely Abdullah and Uzair, who were shown in FIR as also principal accused. Further submits that the offence does not fall under the prohibitory clause and even the I.O. is totally failed to connect the demised premises with the applicant.

Still final challan is not submitted and the applicant who is facing trial are on the will of I.O. and when the final report is submitted, even though connection of contraband is not established.

Learned Assistant Prosecutor General opposed the bail application on the ground of merits while concedes that the learned trial Court did not pass the order

justly because on one hand learned trial Court declined the bail of present applicant who is the principal accused, on the other hand also granted bail to other co-accused, who has also a similar role because in FIR it was mentioned that co-accused Uzair and Abdullah also in collusion with present applicant prepared such contraband material at factory.

Record reflects that co-accused were granted bail and there is no any documents/ record available that prosecution filed any cancellation of bail. The prosecution is also totally silent to connect the demised premises with the present applicant, as no any efforts were taken by the I.O. to approach the concerned functionary in order to connect the premises with the applicant and others. No doubt, the offences are not fall under the prohibitory clause, but once the gravity of offence is shown, then the Court be careful for grant of concessions of bail and it is also settled that, it is the duty of prosecution to connect such heinous offences with the applicant with care and caution, which is missing in this case. The criminal jurisprudence is also attracted that the accused is a favorite child of law instead of the prosecution.

In view of the above facts and circumstances, I accordingly allow the interim bail. Consequently, the applicant/ accused is granted interim bail on the same terms and conditions to the satisfaction of trial Court.

Needless to mention here that observations, if any, made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/ accused on merits. It is made clear that in case applicant/ accused during proceedings before the trial Court, misuses the concession of bail, then the trial Court would be competent to cancel the bail of applicant/ accused without making any reference to this Court, but as per law.

J U D G E