

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.S-381 of 2025

Applicants: (i) Usama S/o Rehmat Ali,
(ii) Muhammad Shahid S/o Hussain Qureshi,
(iii) Muhammad Faheem S/o M. Saleem.
Mr. Ayoub Magsi advocate holds brief on behalf
Mr. Afzal Karim Virk, Advocate.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of Hearing: 11.12.2025

Date of Order: 11.12.2025

ORDER

Shamsuddin Abbasi, J-: The applicants, Usama, Muhammad Shahid and Muhammad Faheem seek pre-arrest bail in Crime No.161 of 2025, under Section 4/6/8 of Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka Act, 2019, registered at Police Station Town Mirpurkhas after dismissal of their bail plea by the learned Additional Sessions Judge-II, Mirpurkhas vide order dated 28.11.2025.

2. It is the case of the prosecution that on 16.11.2025, complainant ASI Abdul Latif, along with his subordinate staff, went for patrolling. During patrolling, he received spy information that accused Usama Qureshi was preparing gutka at his empty plot situated at Gao Shala, Heerabad, Mirpurkhas. On receiving such information, the police party rushed to the spot, but upon seeing the police, the applicants/accused escaped, leaving the material at the spot. The police identified the accused as Usama, Muhammad Shahid, and Muhammad Faheem. From the place of incident, the police recovered a huge quantity of material, which fall within the prohibitions under Sections 4, 6, and 8 of the Prohibition of Preparation, Manufacturing, Storage, Sale and Use of Gutka Act, 2019.

3. Mr. Ayoub Magsi advocate holds brief on behalf of Mr. Afzal Karim Virk advocate for the applicants, who mainly contended that nothing was recovered from the possession of the applicants/accused and they have been falsely implicated by the Police; that the place of

incident is residential area, but the complainant has failed to associate any private person to witness the alleged recovery which is clear violation of section 103 Cr.P.C; that alleged offence does not fall within the ambit of prohibitory clause of section 497(1) Cr.P.C. Lastly he prayed for the grant of bail.

4. Learned D.P.G has opposed for confirmation of interim pre-arrest bail to the applicants on the ground that sufficient quantity of narcotics/Gutka was recovered from the place of incident and police had identified each accused and they are nominated in the F.I.R, as such, they are not entitled for extra-ordinary relief of pre-arrest bail.

5. Heard learned counsel for the applicants, learned D.P.G and perused the record.

6. No doubt, the alleged offence does not fall within the ambit of the prohibitory clause of Section 497 Cr.P.C., and in such like cases grant of bail is a rule and refusal is an exception, as held by the Honourable Supreme Court in Muhammad Tanveer v. The State **PLD 2017 SC 733**. The record reflects that despite thickly populated area, no private person was associated to witness the recovery of prohibited articles and arrest or recovery, which prima facie, case calls for further enquiry in terms of section 497(2) Cr.P.C. They were not arrested at the place of recovery. Case has been challaned and they are no more required for further investigation. It is settled by law that merits of the case can be considered in pre-arrest bail as held in case reported as 2022 SCMR 1271.

7. In view of the above, the instant bail application is allowed, and the interim pre-arrest bail earlier granted to the applicants vide order dated 01.12.2025 is hereby confirmed on the same terms and conditions.

8. The observations made here-in-above are tentative in nature and would not prejudice the case of either party at the trial.

The application stands disposed of.

JUDGE