

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**  
**Cr. Bail Appl No.568 of 2018**

Date	Order with signature of Judge
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*Present:-*

*Mr. Justice Muhammad Iqbal Kalhoro.*

*Mr. Justice Muhammad Karim Khan Agha.*

**For hearing of Bail Application.**

**27.04.2018.**

Mr. Shahab Osto, advocate for applicant

Mr. Ali Haider Saleem, Deputy Prosecutor General Sindh along with  
 SSP Junaid Shaikh-CTD, PI Shahid Karim, PI Sarfraz Ahmed CTD

**ORDER**

**MUHAMMAD IQBAL KALHORO J:** The applicant who is Superintendent Jail is seeking post arrest bail in a case bearing crime No.145/2017 U/s 119, 130, 201, 222 PPC r/w 7/11-N Anti-Terrorism Act ('ATA'), 1997 registered with Police Station CTD/OPS, Karachi.

2. The case of the prosecution as set out in the FIR registered on **11.09.2017** at 1600 hours is that on **18.06.2017**, the Law Enforcing Agencies conducted a search operation inside the Central Prison, Karachi and recovered huge quantity of contraband / prohibited items from the barracks of the jail which include anti Jamming Devices, Portable Memory Devices, 102 mobile phones, 449 Televisions, 163 LCDs, 45 Knives (Khanjars), Cash Rupees 3.55 Million, heroin and other items. The applicants and others jail officials being responsible under the law to prevent sneaking of these prohibited articles inside the jail failed to perform their duty and by doing so they facilitated the prisoners of banned terrorist groups to escape from the jail. This case after usual investigation has been challaned and is currently pending before the Anti-Terrorist Court-I, Karachi Division.

3. Learned defence counsel has argued that applicant is innocent and has been falsely implicated in this case; that rule of consistency is applicable in the case of the applicant as previously similarly placed co-accused namely Faheem Anwar and Abdul Rehman Shaikh have been granted bail by this Court vide order dated **12.04.2018** in Cr. B.A. No.1960/2017 and Cr. B.A. No.1908/2017; that in fact search of the jail was conducted on the letter of the applicant dated **03.06.2017**, which shows intention of the applicant to cleanse the jail from illegal items; and that had he been involved, he would have never asked for search operation in the jail; that applicant was posted in the said jail on **10.05.2017** and was removed on **14.06.2017** in almost one month's period, the prosecution has no evidence that all alleged items were shipped in the jail during that period so as to establish nexus of the applicant with such activity; that applicant has already been granted bail in the main case of jail breaking bearing Crime No.149/2017 and another case bearing Crime No.157/2017 that pertains to hindering and hampering of the fair investigation, he has been

exonerated in the investigation. Learned counsel also states that the FIR is delayed for about three (03) months without any plausible explanation and the memo of alleged recovered articles was prepared on **20.12.2017** after more than five (05) months of the incident. He pleaded that the said circumstances show that the case against the applicant requires further inquiry.

4. On the other hand, learned DPG has opposed grant of bail to the applicant. SSP CTD, who remained supervising Investigating Officer ('IO') of the case with the leave addressed the court but could not convince us as to why FIR was registered after almost delay of three (03) months and why the list which was prepared on the day of incident dated **18.06.2017** does not bear a mention of banned/prohibited articles and why the recovery memo was prepared after five (05) months of the incident. The said SSP mainly pleaded his weakness in the sense that the accused were influential and despite their efforts, they did not allow them access to jail to further collect evidence, and therefore some loopholes in the investigation.

5. Co-accused namely Faheem Anwar and Abdul Rehman Shaikh against whom similar allegations have been leveled by the prosecution have been granted bail by this Court vide order dated **12.04.2018** in Cr. B.A. No.1960/2017 and Cr. B.A. No.1908/2017. The case of the applicant is on the same footing and therefore the rule of consistency is applicable on his case. Additionally, it may be observed that prosecution has not pointed out to any evidence showing that the alleged banned articles were shipped during the tenure of one month when the applicant was posted in the jail. In the main case bearing crime No.149/2017, the applicant has already been granted bail by the trial Court and in the case bearing Crime No.157/2017 lodged against the applicant on the allegation of hindering investigation of the case, he has been exonerated during investigation. In the circumstances, we are of the view that applicant has been able to make out the case for grant of bail. Consequently, this bail application is allowed and he is granted bail subject to their furnishing a solvent surety in the sum of Rs.10,00,000/ (Rupees one million only) with P.R. bonds in the like amount to be executed to the satisfaction of the trial Court, and in addition their names shall be placed in Exit Control List ('ECL') till the trial against them is concluded.

6. The bail application is disposed of in the above terms; the findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

**J U D G E**

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Rafiq/P.A.