

IN THE HIGH COURT OF SINDH AT KARACHI

Before: Mr. Justice Mohammed Karim Khan Agha

Cr. Bail Application No.1749 of 2016

Salamullah son of Abdus Salam Khan

Vs.

The State

Date of hearing:	20-06-2017.
Date of Order	22-06-2017.
Applicant/Accused:	Through Mr. Shoukat Ali Shehroz, Advocate.
Respondent:	Through Shaikh Liaquat Hussain, Assistant Attorney General.

ORDER

Mohammad Karim Khan Agha, J. This is an application under section 497 Cr.P.C for post arrest bail which has been moved on behalf of the applicant/accused Salamullah (the applicant), who has been charged with offences under Sections 409/420/468/471/109/34 PPC r/w 3(2), 13/14 Foreigners Act 1946 R/w Section 5(2) of PCA, 1947 lodged at Police Station FIA, Karachi.

2. The allegation against the applicant/accused according to the contents of the FIR are that the applicant/accused Salam Ullah Khan, Deputy Superintendent (ERP # 9682) of NADRA has processed approved CNICs to Aliens / Non-National by abusing

his official position as in charge National Registration Centre (NRC) on the basis of fake / forged documents. Thus accused Salam Ullah Khan s/o Abdus Salam Khan in collusion with others with common objective and criminal intention, fraudulently processed and issued CNICs to Aliens / Non-Nationals for wrongful personal gains and thereby committed offences punishable u/s 409/420/468/471/109/34 PPC r/w 3(2), 13/14 Foreigners Act 1946 R/w Section 5(2) of PCA, 1947.

3. After usual investigation, the challan was filed and the matter is now pending before the trial court.

4. Parties heard. Learned counsel for the applicant/accused mainly placed reliance on the orders passed by single judges of this Court in Criminal Bail Applications No.1736/2016, dated 28-12-2016, 1746/2016 dated 30-01-2017, 1230/2015 dated 20-11-2015 and 1568,1570 and 1686 all of 2016 dated 17-12-2016 in which similarly placed persons charged with similar offenses had been granted post arrest bail and the case of **Muhammed Saeed Mehdi V State** (2002 SCMR 282) as well as the concerned Registration Policy.

5. Learned state counsel vehemently opposed the grant of post arrest bail mainly on the grounds that the offense fell within the prohibitory clause, he had been nominated in the FIR and a specific role had been assigned to him, that the offense was a crime against society, that the post arrest bail had already been declined to the co-accused who were the subordinates of the

applicant vide order of this court dated 05.12.2016 passed by a single judge of this court. In addition he also relied on the case of **Wazir Gul V The State** (2016 P.Cr.LJ 951) passed by a single judge of the Peshawar High Court.

6. I have considered the arguments of the learned counsel for the applicant, the State, perused the record and considered the relevant case law.

7. The applicant's earlier application for post arrest bail was dismissed by the trial court vide order dated 16-11-2016

8. I am of the considered view that the applicant should be admitted to post arrest bail for the following reasons; that there was a 6 year delay in lodging the FIR which has gone unexplained; that the documents in question have not been signed by the applicant and as such this would appear to make the case one of further inquiry; I do not find the reasons given in the earlier order passed by the trial court dismissing the applicants earlier post arrest bail application to be of much substance on a tentative review of the evidence; that the matter has been challoned and as such the applicant is no longer required for investigation, that most of the evidence is in documentary form which cannot be interfered with as it is with the prosecution, that the applicant is a government servant and is unlikely to abscond and no allegation of his absconding or tampering with evidence has been made, that there is no evidence that the applicant received any bribe or other form of unjust enrichment; that consistently similarly placed

persons charged with similar offenses have been granted bail by this court and as such there should be consistency in the courts orders; that the applicant has already been in custody for about 10 months and yet the charge has not been framed and no explanation has been given for this prolonged delay and there are apparently 9 PW's to be examined and that it was the subordinates of the applicant who it appears put the false data in the system and not the applicant whereas since there is no signature on the documents by the applicant it is not clear as to whether he even saw these documents let alone checked them and thus as mentioned above this aspect of the case needs to be further examined.

9. It is true that issuing false CNIC's is a serious offense and that the subordinates of the applicant's bail has been declined by a single bench of this court however I am of the view that on account of all the above mentioned reasons this is a case of further inquiry and even otherwise merits the granting of bail based on its own particular facts and circumstances and the consistent rulings of this court in similar cases which I see no reason to depart from.

10. As such the applicant is granted bail subject to furnishing solvent surety in the sum of RS 500,000(five hundred Thousand) and PR Bond in the like amount to the satisfaction of the Nazir of this Court.

11. Needless to say that this order shall have no effect on the trial proceedings which will be decided on merit by the learned trial judge based upon the evidence placed before it.

12. This bail application stands disposed on in the above terms.