

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.619 of 2018

Present:

**Mr.Justice Khadim Hussain M.Shaikh**  
**Mr.Justice Amjad Ali Sahito**

Applicants : Riaz Ahmed Khan S/o Niaz Ahmed Khan through Mr. Muhammad Jamil, Advocate.

State : Through Mr. Zahid Khan, Assistant Attorney General alongwith SI Rizwan from FIA, CCC, Karachi.

Date of Hearing : 31.07.2018

Date of Order : 31.07.2018

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through the instant bail application, applicant/accused Riaz Ahmed Khan S/o Niaz Ahmed Khan seeks post-arrest bail in Crime No.20/2014 registered at Police Station F.I.A., Corporate Crime Circle, Karachi, for the offences under sections 409, 420, 467, 468, 471, 109/34, PPC read with Section 5(2) of PCA 1947, after his bail plea has been declined by the learned Presiding Officer, Special Court (Offences in Banks) Sindh at Karachi vide order dated 18.04.2018.

2. The precise allegation contained in the FIR is that the accused was submitted fake, bogus and fabricated documents of the property i.e. Plot No.195, measuring 120 sq.yards situated at Sheet No.36, Deh Drigh, Tappo Malir, Karachi with criminal

intention of Muhammad Ashraf Sunny for obtaining Saibaan Loan from NBP.

3. Learned counsel for the applicant/accused, *inter alia*, contended that the applicant/accused is innocent and has been falsely implicated in the instant case by the prosecution in order to cover up the real culprits and to substitute them by implicating the present applicant/accused; that the incident took place in 2006 and FIR No.20/2014 was lodged on 10.11.2014 after delay of almost eight (8) years, which requires further inquiry; that the present applicant/accused neither obtained loan from the bank nor signed/filed any kind of document to receive the loan from the complainant and having no relationship with the complainant/NBP in this case; that the complainant never mentioned the name of present applicant/accused in the FIR as well as in the statement recorded under section 161, Cr.P.C.; that the FIA while acting in arbitrary and illegal manner raided at the house of applicant/accused and arrested him in the instant crime, which is causing severe mental stress, agony and his reputation in the society is also at stake; that there is no likelihood of the abscondance of the applicant/accused or tampering the evidence, as the case based upon the documentary evidence, which is in possession of the prosecution; that it is the duty of the Court to save the accused from malicious prosecution so that they may not have to undergo the ordeals and pangs of the trial, which itself tantamount to a kind of punishment; that nothing is available on record to substantiate the allegation and

falsely implicate in the instant case; that contents of the FIR reveals that no offence could be spelt out against the present applicant/accused and his continuous involvement and proceedings against him before the trial Court would amount to abuse of the process of law; that there is no likelihood that the trial against the applicant/accused will culminate in conviction; that since the co-accused Muhammad Ashraf Sunny has already been granted bail by the learned trial Court, therefore, the rule of consistency is applicable to the facts and circumstances of the present applicant/accused and he is also entitled to the concession of bail.

4. Conversely, learned Asst. Attorney General for the State opposed the grant of bail to the applicant/accused on the ground that the applicant/accused had applied for loan amounting to Rs.12 Lacs on the basis of forged documents of non-existing property which he purportedly purchased from the co-accused Muhammad Ashraf Sunny, hence the applicant/accused is not entitled to the concession of bail.

5. We have heard the learned counsel for the applicant/accused, learned Asst. Attorney General for the State and examined the material available on record.

6. From the perusal of record it reveals that the loan was sanctioned to the co-accused Muhammad Ashraf Sunny and such amount was credited in his account, which was withdrawn by him. Per prosecution, co-accused Muhammad Ashraf Sunny

is the main accused in the instant crime and the bail was granted to him by the trial Court vide order dated 21.12.2016, a copy of such order is available on record at page 95. The applicant/accused is alleged to have signed the loan documents on behalf of the co-accused Muhammad Ashraf Sunny, who is beneficiary of the loan, having utilized the loan amount and thus, the rule of consistency is applicable to the present case and the applicant/accused is also entitled to the concession of bail having been extended to the co-accused. Furthermore, the other co-accused, namely, (1) Faisal Bakhtiar, (2) Aftab Ahmed and (3) Mumtaz Hussain have also been granted bail by the trial Court vide orders dated 05.01.2015, 01.06.2016 and 16.08.2017 respectively, copies of orders are available on record at pages 89 to 97. Moreover, the applicant/accused is in custody since his arrest. The present applicant/accused has also been granted post-arrest bail by the trial Court vide order dated 18.04.2018 in Case No.57/2014 emanating from Crime No.16/2014. The case against the applicant/accused entirely depends upon the documentary evidence, which being in possession of the prosecution, could not possibly be tampered with it by him.

7. Under these circumstances, we are of the considered view that the case of the applicant/accused also requires further inquiry into his guilt falling within the ambit of section 497(2), Cr.P.C., which entitled him to the grant of concession of bail on the ground of rule of consistency and thus, the

applicant/accused made out a case for grant of bail and consequently, the bail was granted vide our short order dated 31.07.2018, whereby the applicant/accused was granted post-arrest bail subject to his furnishing solvent surety in the sum of Rs.2,00,000/- (Rupees Two Lac) each and P.R. bond in the like amount to the satisfaction of the trial Court.

8. These are the reasons of the said short order dated 31.07.2018.

9. The observations made hereinabove are tentative in nature and the learned trial Court shall decide the case on its own merits strictly in accordance with law.

**J U D G E**

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