

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.1620 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application

10.01.2019

Mr. Hassan Sabir, Advocate for the applicant.
Mr. Rahat Ahsan, Addl. P.G. Sindh

Through the instant bail application, applicant/accused Muhammad Arsalanul Haq son of Ihthisamul Haq, seeks bail after arrest in FIR No.21/2018, registered at police station ACE Karachi, under Sections 161, 34, S.5(2) Act-II.

2. Brief facts of the prosecution case as disclosed in the FIR are that Inspector Muhammad Khushnud Javed received an application of complainant from the office of dd-East, wherein it was alleged that he intended to construct a company, therefore he went to the SBCA Landhi Town Office for getting information, where he filed his case. On 1st scrutiny he deposited Rs.85 lacs through challan, they again issued another scrutiny challan amounting to Rs.23 lacs which he also deposited. The accused AD-Imran Shaikh informed the complainant that an expense of more amount of Rs.30 lacs to Rs.40 lacs was expected for his work. On his request he reduced his demand and ready to receive Rs.25,00,000/- but after some days he demanded Rs.30 lacs. In the meantime construction work of his company was started on his undertaking that nobody will come to the site, he was only required to send the money, therefore, he paid to him **Rs.29** lacs in installments, out of which he sent **Rs.18 lacs** alongwith a mobile phone through Salman & Shahid whereas out of balance amount of

Rs.1060000/- **Rs.5 lacs** in cash was sent to accused Imran Shaikh. The remaining amount of **Rs.560,000/-** was sent to him through one Kashif & Asim & Abdul Rahim. Thereafter he also sent cash of **Rs.2,00,000/-**, **Rs.150,000/-**, **Rs.135000/-** & **Rs.150,000/-**. He paid an amount of **Rs.5 lacs** to his house and remaining amount of **Rs.25 lacs** paid to accused Imran Shaikh through Kashif @ Asim & Abdul Rahim. He also paid **Rs.2 lacs** & 02 times **Rs.150,000/-** to accused Mohiuddin, so also sent **Rs.135,000/-** to his house through said Kashif @ Asim. After that he received the call from accused Imran Shaikh that he has raised the construction to the extent of money he paid hence they are asking for more money to be paid to the DG-SBCA & other high officials. He also disclosed that he was going to perform Hajj therefore, he paid him **Rs.3 lacs** at his office and then **Rs.1 lac** prior to his leave. After his departure SBI-Naveed & BI-Arsalanul Haq pressurize him, therefore, he paid **Rs.5 lacs** to him, out of which he paid **Rs.3 lacs** through said Kashif @ Asim at Ramada-Hotal and cash of **Rs.2 lacs** he directly paid to him. Now accused Imran Shaikh calling him for arranging more amount of **Rs.5 lacs** to be paid to accused Naveed & applicant / accused Arsalan, on his request he was agreed to pay **Rs.2,50,000/-** as bribe on **08.11.2018**, thereafter trap party was arranged headed by I.O Muhammad Khushnud Javed of ACE Karachi and supervised by Mr. Asghar Ali learned Judicial Magistrate-Malir Karachi. During trap proceedings applicant / accused was apprehended and tainted money of Rs.2,50,000/- was recovered from left side pocket of his trouser, in presence of mashirs. After due investigation I.O submitted interim charge sheet before the trial Court, wherein accused Muhammad Imran, Naveed Ahmed and Mohiuddin Sharif were shown on bail, whereas applicant/accused was shown in custody.

3. The applicant/accused approached the Spl. Judge Anticorruption (Provincial) Karachi, for post arrest bail, which was declined by order dated 28.11.2018. Thereafter, the applicant approached this Court for grant of post arrest bail.

4. Learned counsel for the applicant contended that offence does not fall within the prohibitory clause of **Section 497 Cr.P.C** and the punishment for an offence under **Section 161 PPC** is three years and **Section 5(2) of Prevention of Corruption Act-II, 1947** is seven years. He contends that the FIR in fact is against accused Imran Shaikh Addl. Director SBCA and even from the contents of FIR, the applicant / accused has gone to meet complainant on behalf of one Imran Shaikh. The applicant was forced to receive sealed envelope from the complainant for Imran Shaikh. The moment he received sealed envelope he has been arrested because trap was laid against him. He has further contended that complainant is blackmailer as he lodged another similar **FIR No.49/2016** against staff of SBCA, which was disposed of in 'C' class.

5. Learned counsel for the complainant Ms. Shahnaz Abdul Razzaq also appeared on behalf of the complainant, complainant was also present in Court. Learned counsel for the complainant stated that complainant has given money to Imran Shaikh for getting several jobs done in the office of SBCA as stated by him in the FIR and he has been doing so only because he was forced to make payment for getting legal work done in the SBCA office. However, when Court tried to verify contentions of his counsel, the complainant left the Court room. Then learned counsel was directed to call her client as I wanted to know that the contents of FIR were true or not.

She requested the Court to take up the case after sometime. After more than half hour the case was again called but neither the complainant nor his counsel is in attendance.

6. The contents of FIR indicate that complainant appears to be habitual in bribing different officers of SBCA through different persons named in the FIR. He has categorically alleged he has obliged Imran Shaikh and paid various amount to him. At least 18 incidents of BRIBING SBCA staff are mentioned in the FIR. Learned counsel for the complainant did not dispute narration of facts in the FIR rather she supported the contents by saying that complainant had no option. Be that as it may, as far as present accused is concerned from the contents of the FIR it appears that he has been called by the complainant at the instance of Imran Shaikh ADD-SBCA, therefore, prima facie, the accused/applicant was not even aware of the kind of transactions between the Imran Shaikh and the complainant.

7. After going through the FIR when I asked learned ADDL. P.G, to comment, she had no words to oppose this bail application.

8. In view of the above, applicant Muhammad Arsalanul Haq is granted bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- (*Rupees One Hundred Thousand*) and P.R bond in the like amount to the satisfaction of trial Court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

JUDGE