

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.1604 of 2018

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

For hearing of bail application

16.01.2019

Mr. Nasrullah Korai, Advocate for the applicant.
Mr. Irshad Ali Shar, advocate for complainant.
Ms. Robina Qadir, State Counsel.

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Through the instant bail application, applicant/accused Zahid Nadeem son of Muhammad Mushtaq, seeks bail after arrest in FIR No.187/2018, under Sections 407, 511, 34 PPC registered at police station Bin Qasim, Karachi.

2. Brief facts of the prosecution case as disclosed in the FIR are that complainant Shahnawaz Khan lodged the FIR on **21.10.2018** AT 0010 hours, stating therein that he is working in Allied Co-operative Company. On 15.10.2018 he purchased fertilizer (Yoria Khad) about 1100 sacks from FFBL plant and loaded in Troller bearing No.TLC-071 to broker Zahid Nadeem son of Muhammad Mushtaq (late) Troller owner, driver Saleem son of Muhammad Mushtaq who send to Farooqabad City, District Shekhupura Punjab the above fertilizer loaded on above number troller. On **19.10.2018** the owner of Marketing Group Documents Officer in which he disclosed that the Fertilizer which he had been purchased on **15.10.2018** for Farooqabad who did not reach there. On inquiry, he came to know that Zahid dealer and alongiwith other unknown companions did not deliver the above material /Khad/Fertilizer and same was being dumped near BCG Chowk Multan and the driver accused was caught hold raid handed, hence the accused has committed the criminal breach of trust and caused huge lost to complainant.

3. Learned counsel for the applicant/accused has contended that the accused is innocent and he has been falsely implicated in this case. He further contended that the present applicant/accused is a broker and not played any role in the alleged offence. He further contended that on **18.10.2018** goods/Fertilizer has been delivered / received at alleged destination/FFC warehouse Farooqabad Punjab where the goods were delivered, such delivery report is attached with bail application. He next contended that the accused has not committed the alleged offence and there is delay of 07 days in lodging the FIR without any plausible explanation. He further contended that the present accused is neither owner of vehicle nor driver of vehicle and he was arrested at Karachi mala fide. He further contended that alleged offence does not fall within the prohibitory clause of section 497 Cr.P.C.

4. Learned State counsel alongwith counsel for the complainant opposed the bail application on the grounds that the present applicant / accused is nominated in FIR with specific role. It is further averred that present applicant/accused is broker and he provided the trolley No.TLC-071 of his brother driver Saleem. Learned counsel for the complainant contended that I/O has collected the CDR record of cell phone of applicant who was continuously in contact with his brother accused at the time of committing offence/dumping and shared his common intention. It is further averred that Deputy Manager Marketing (DSR) caught raid handed the consignment of "Sona Yoria" which was being dumped at a godown near BCG Chowk Multan on **17.10.2018** at 1500 hours and the accused with conspiracy have committed the criminal breach of trust and

not delivered the goods at its destination FFC warehouse Farooqabad, with the result FIR was registered.

5. Beside the contentions raised by counsel for the applicant amongst other, that offence does not fall within the prohibitory clause it is admitted position that entire goods had reached its destination and the allegation that it was attempted to be stored in some other godown in Multan is prima facie need to be investigated.

6. In view of the above facts and discussion, concession of bail is extended to the applicant/accused Zahid Nadeem son of Muhammad Mushtaq, 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.

7. 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.

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JUDGE

