



offence as neither he was a Bank Officer nor he opened any account in his own name or under his signature. He further argued that many co-accused have already been granted bail. The applicant has been implicated in the offence on the basis of statement of co-accused who became approver subsequently vide his statement recorded under Section 164 Cr.P.C.

3. The record reflects that initially, the applicant was shown absconder and his name was appearing at the Sr. No.6 in the charge sheet, however, he was arrested on 30.7.2018 and applied for post arrest bail in the trial court in Special Case No.40 of 2013. The learned trial court vide its order dated 11.09.2018 dismissed the bail application. The applicant was in fact implicated by the co-accused Muhammad Firdous, who became approver and his 164 Cr.P.C. statement was recorded by the XVth Judicial Magistrate Karachi South. The approver asserted that the applicant opened 06 Accounts in different names in J.S. Bank, Dhoraji Colony Branch, Karachi and Burj Bank Ltd. Korangi Industrial Area Branch, Karachi. ***(At this juncture, the I.O, informed me that in fact the applicant had got opened the accounts but the accounts were not in his name)***. It was further stated that some cheques were credited in the said accounts which were issued by TDAP. The total amount was Rs.200 million out of which more than Rs.110 million were given to Abdul Karim Daudpota in cash in Pak. Rupees and US Dollars, whereas, Rs.25 million were given through pay orders, which the approver and the present applicant had got issued respectively from HBL, UBL SMCHS Branch and JS Bank Dhoraji Colony Karachi in favour of a person from whom Abdul Karim

Daudpota purchased a Bungalow situated in DHA Karachi. It was further stated by the approver that 20% of the disbursed amount kept/held by the applicant as his share and the remaining 10% was given to the approver who onward gave this amount to Muhammad Tahir Gujjar (Sub-Inspector F.I.A.).

4. The I.O. had also shown me 161 Cr.P.C. statement of Badar Hassan, Manager, Burj Bank which was recorded on 22.4.2013, he said that the client Faisal Ahmed visited the Branch along with Muhammad Faisal alias Haji (**applicant**). Both Muhammad Faisal alias Haji and Faisal Ahmed went to the counter for fulfilling the formalities for issuance of pay orders. One pay order received by Faisal Ahmed and he handed over the pay order to the applicant and they left the Branch. Whereas Nadir Hussain, Branch Manager, J.S. Bank Ltd. in his 161 Cr.P.C. statement said that on 17.4.2013 Kashif Aslam brought 03 account opening forms in respect of 03 sole proprietorship firms of which Faisal Ahmed was proprietor. The Branch Manager checked the forms and completed the necessary requirements. It was further stated in his statement that Faisal Ahmed informed him that these accounts were also referred by his uncle Muhammad Faisal alias Haji.

5. I asked the learned D.A.G. how many witnesses have been cited by the prosecution in the trial court, he responded that 37 witnesses have been cited but I.O. informed me that perhaps evidence of only 03 witnesses have been recorded by the trial court and the matter is still pending. The I.O. further stated he has not found any fake accounts in the name of the applicant in which

the amount of misappropriation was deposited or withdrawn.

6. The case is pending in the trial court since 2013, but so far no progress is made out nor the evidence has been completed though after arrest of the present applicant 06 months have been passed. The I.O. has also informed me that 09 accused persons i.e. Abid Jawed Akber, Abdul Kabir Qazi, Sarfraz, Jehanzeb Siddiqui, Kashif Aslam, Abdul Karim Daudpota, Muhammad Tahir Gujjar, Iltaf Khan and Mian Abdullah have been granted bail and the investigation has been completed. It appears that the role assigned to the present applicant requires further inquiry and unless the evidence is recorded the guilt of present applicant cannot be proved. The learned trial court without adverting to the correct position, dismissed the bail application in a slipshod manner. The prosecution has to explore every avenue to prove the guilt. The basic concept of bail is that liberty of innocent person is not to be curtailed unless and until proved otherwise. Deep appraisal and detailed discussion of evidence is not permissible and court should not cross the barrier of permissible limits of law while making tentative assessment of the evidence at the bail stage. It is well settled that further inquiry is a question which must have some nexus with the result of the case for which a tentative assessment of the material on record is to be considered for reaching just conclusion. The case of further inquiry pre-supposes the tentative assessment which may create doubt with respect to the involvement of accused in the crime. It is well settled that object of trial is to make an accused to face the trial and not to punish him as an under trial prisoner. The basic idea is to enable the accused to answer criminal prosecution

against him rather than to rot him behind the bar. Accused is entitled to expeditious access to justice, which includes a right to fair an expeditious trial without any unreasonable and inordinate delay. The intention of law is that the criminal case must be disposed of without unnecessary delay. It is not difficult to comprehend that inordinate delay in imparting justice is likely to cause erosion of public confidence in the judicial system on one hand and on the other hand it is bound to create a sense of helplessness, despair feeling of frustration and anguish apart from adding to their woes and miseries. Reference can be made to orders authored by me **(Muhammad Ali Mazhar-J)** in the case of **Ali Anwar Ruk, Abdul Jabbar, Syed Mansoor Ali and Sardar Amin Farooqui reported in 2014 SBLR 766=2014 P.Cr.L.J. 186, PLJ 2014 Karachi 251=2014 Cr.L.J 777, PLJ 2014 Karachi 254=2014 UC 784 and PLJ 2014 Karachi 268.**

7. As a result of above discussion, the applicant is granted bail subject to furnishing solvent surety in the sum of Rs.20,00,000/- (Rupees twenty lacs only) with P.R. Bond in the like amount to the satisfaction of the trial court. In addition to the surety the applicant will also deposit his original passport in the trial court. The bail application is disposed of.

**Judge**