

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Bail Application No.156 of 2019

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DATE                      ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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For hearing of bail application

**06.02.2019**

Mr. Nasrullah Korai, advocate for the applicant.  
Mr. Nadeem Ahmed, Assistant Attorney General.  
I.O Ghrulam Akber, present.  
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Through the instant bail application, applicant/accused Abdul Ghafoor, son of Inayat Hussain, seeks bail after arrest in FIR No.406/2018, under Section 5(2) PCA-II 1947 r/w 419/420/468/471/109 PPC & 3(2), 13/14 Foreigner Act, 1946 registered at P.S FIA AHT Circle, Karachi.

2. Brief facts of the prosecution case as disclosed in the FIR are that the accused namely Sajid s/o. Abdul Ghani, Abdullah Shah s/o Shah Murad, Fareed s/o Muhammad Iqbal, Abdul Rahim s/o Madad Khan Baloch, Abdul Rahim s/o. Abdul Rehman and Abu Bakar Baloch s/o Rahim Bakhsh entered into Pakistan illegally and came in contract with the agents namely Saleem Ahmed and Khalil Baloch, who demanded and received Rs.100,000/- to Rs.400,000/- per head and in connivance and collaboration with Abdul Ghani and Muhammad Iqbal as well as concerned Office Incharge of NRCs NADRA and others got issued the Pakistani CNICs and passport illegally and fraudulently on the basis of fabricated / arranged / fake documents for the aforesaid Irani nationals and on the basis of which they proceeded to Bahrain and about 5/6 months ago they were apprehended by the Bahrain Police and finally sent back to Pakistan (Turbat Airport) on the basis of Pakistani CNICs.

3. The applicant/accused approached the learned Special Court (Central-I) Karachi for post arrest bail, which was declined vide order dated 18.01.2019. Thereafter, the applicant approached this Court for grant of post arrest bail.

4. Learned counsel for the applicant contended that applicant/accused is innocent and has been falsely implicated in this case with mala fide intention and ulterior motives for the sole purpose of harassment, criminal intimidation and for confessing the crime which he had never committed. Learned counsel next contended that there is about seven years delay in lodging the FIR for which no plausible explanation has been furnished. He further contended that the complainant of this case is also the I.O of the case which is against the settled principle of law and against the set precedents of the superior Courts whereby it has also been held by the Superior Courts that in such instances case becomes prejudicial and bail may be granted on this ground too. He next contended that there is no specific allegation against the applicant/accused in the FIR and he has been implicated in this case without any corroboratory evidence hence, it is a case of further inquiry. He further contended that no name of the applicant/accused is mentioned in the FIR and it has only been mentioned in the FIR that the NADRA officials were involved in this case and no incriminatory plausible evidence has been brought on record to substantiate such allegations and the applicant/accused was only arrested as that he had worked in the NADRA Mega Centre situated at Korangi Road, Karachi. Learned counsel further averred that as per NADRA Ordinance, only NADRA official is competent to lodge a complaint, if any, illegality is committed in the NADRA office, which did not happen in this case and thus severe illegality has been committed. He further contended that the allegations against the applicant/accused is that he is involved in issuance of CNIC to the non-nationals and this story is solely based on assumptions and presumptions as that name of the present applicant/accused has been disclosed by other persons, which is not permissible under the law. He next contended that the applicant/accused has been remanded to jail custody and no more required for further investigation and recovery. He lastly prayed that applicant/accused may be enlarged on bail as other co-accused has already been enlarged on bail by the trial Court. In support of his contentions, learned counsel for the applicant has relied upon **2017 YLR 1957** Fawad Rehman and another..Vs.. The State, **2017 YLR 446** Abdul Wasay Soomro..Vs.. The State, **2017 P.Cr.L.J Note 12** Karamat

Ali...Vs.. The State and another, **2017 YLR Note 413** Shabir Ahmed Panhyar ..Vs.. The State & **1995 SCMR 170** Saeed Ahmed ..Vs.. the State.

5. Learned Assistant Attorney General opposed the bail application and states that applicant/accused has committed offence, therefore, he is not entitled to concession of bail.

6. After hearing the learned counsel for the parties and going through the record, it has been noticed that:-

i. It appears that the offence, if any, was committed in 2009 and the FIR has been lodged on 19.12.2018 and no reason at all has been furnished for lodging FIR with such a long delay.

ii. It appears that no name of the applicant/accused is find place in the FIR and no specific role has been assigned and the allegations, if any, in the FIR is that some Irani nationals entered into Pakistan and they got succeeded in getting CNICs and passports through agents after making payment to them on the basis of fake and fabricated documents.

iii. It is yet to be determined as to whether the applicant/accused has played any active role in processing of data of Irani nationals for preparation of their CNICs.

iv. Admittedly numbers of employees are engaged in the process of making data entries and issuing the CNICs to the customers and in such circumstances, it cannot be said at this stage with certainly that the applicant/accused had the conscious knowledge of such wrong doing in this office.

v. The applicant is not previous convict nor a hardened criminal. There is no allegation of enmity. There is no likelihood of applicant to influence the prosecution witnesses. The applicant is behind the bars for more than two months. He is no more required for further investigation; therefore, no useful purpose would be served by keeping the applicant behind the bars for indefinite period.

7. In view of the above, concession of bail is extended to the applicant/accused Abdul Ghafoor, son of Inayat Hussain, 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.

8. 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

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