

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.466 of 2019

Date	Order with signature of Judge
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1. For orders on M.A. No.3220/2019 (U/A)
2. For orders on M.A. No.3221/2019 (Ex/A)
3. For hearing of bail application

08.04.2019

Mr. Muhammad Ali Ansari, advocate a/w applicant.

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The applicant/accused is facing trial in Crime No.09/2019 under Section 409, 411, 413, 34 of the PPC r/w Section 5(2) ACT-II of 1947 registered at P.S. ACE Karachi. The applicant after failing to obtain bail from the Court of Special Judge Anti-Corruption (Provincial), Karachi has preferred this bail application.

2. Brief facts of the prosecution case mentioned in FIR by complainant are that “during investigation of case FIR No.11/2018 u/s.409/411/413/34 PPC of ACLC PS District South Karachi, has brought on record that accused Aslam Khan while posted as SHO of P.S Pak Colony in his official capacity has illegally sold out/misappropriated the case property mentioned in memo of recovery. The said recovered case property was sold out as scrap material to the private/arrested accused persons by the accused Aslam Khan” hence this FIR.

3. Learned counsel for the applicant/accused has contended that applicant/accused is quite innocent and has falsely been implicated in this case by ACE. It is contended that case is based upon the FIR No.11/2018 of ACLC PS, due to involvement of police officials same was sent to ACE, hence FIR of this case. It is further contended that prosecution has no evidence that the said scrap was case property of

any crime pending or disposed of by the competent Courts. It is further contended that as per allegation the scrap was huge quantity and loaded in 08-trucks, but prosecution had no evidence regarding the provision of section 409 PPC. It is further averred that offence does not fall within the prohibitory clauses of Section 497 of the Cr.P.C and I.O has submitted interim report hence applicant is no more required for further investigation, therefore, applicant / accused is entitled for grant of bail.

4. I have heard the arguments and perused the record and I have noticed as under:-

No ground is made out for bail before arrest for the simple reason that accused has been specifically nominated in the FIR for misusing his position is in contravention of Section 409 of the P.P.C, which entails life imprisonment and minimum punishment of 10 years.

5. In view of the above facts and circumstances, the present applicant/accused has no case for grant of bail; therefore, instant bail application is dismissed alongwith listed applications.

6. Needless, to mention here that the observations made hereinabove are tentative in nature and should not influence trial Court while deciding the case of the applicant/accused.

JUDGE

SM