

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

Cr. Bail Appln No.232 of 2014
Cr. Bail Appln No.468 of 2014

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Cr. Bail Appln No.232 of 2014

Muhammad Nadeem.....vs.....State

Cr. Bail Appln No.468 of 2014

Noorul Amin.....vs.....State

03.06.2019

Applicants are present a/w their counsel Khawaja Saiful Islam, Advocate.

Mr. M. Zahid Khan, Assistant Attorney General.

Muhammad Ali Mazhar, J: The applicant Muhammad Nadeem was granted interim bail by this court on 20.02.2014 in Crime No.76/2013 lodged under Sections 409/420/468/471/109 PPC r/w Section 5(2) of Prevention of Corruption Act-II, 1947 at P.S. FIA, Crime Circle, Karachi, whereas the applicant Noorul Amin was also granted interim bail in the same Crime No.76/2013 by the learned single Judge of this court on 03.04.2014. In the FIR it is stated that accused Muhammad Nadeem and accused Noorul Amin (applicants) with other accused persons misappropriated/ embezzled huge amount through fraudulent means by falsification of documents and caused wrongful loss the Government exchequer. The learned counsel also produced the copy of interim charge sheet submitted in the same crime and stated at bar that the interim challan was treated final challan and the charge has already been framed by the learned trial court. The allegations against the present

applicants are mentioned in paragraph 13 which is reproduced as under:

“13. Accused Najam-ul-Haq AVP Manager Foreign Exchange Main Branch, Karachi connived with accused Noor-ul-Amin in getting freight subsidy on bogus claims and in turn he received Rs.95,000/- out of proceeds of crime from M/s. Saleem Sons vide Cheque No.6977897 dated 08.05.2009 as illegal gratification which was credited into his salary account No.71395-7 of NBP Main Branch, Karachi, on 08.05.2009.”

2. The learned counsel further argued that in the similar crime, the co-accused Mirza Karim Baig, Triq Iqbal Puri, Abdul Kareem daudpota, Javed Anwar Khan, Mirchoo Mal Khatri, Adnan Zaman, Asim Rizwani, Najam-ul-Haq, Faisal Rehan and Younis Rizwani are already on bail, therefore, he requests that keeping in view the rule of consistency, the bail of the present applicants may also be confirmed. He further argued that applicants never got any undue benefit nor embezzled the Government money in the aforesaid crime but their names have been included with malafide intention. He further argued that the investigation has been completed and the applicants are no more required for further investigation by the I.O. The charge has already been framed by the trial court.

3. The learned Assistant Attorney General submits that charge has been framed and the trial court is already proceeding the case; many co-accused are already on bail, therefore, keeping in view the rule of consistency and case of further inquiry, he concedes his no objection to the confirmation of bail.

4. Heard the arguments. It is clear that allegation can only be determined at the conclusion of the trial, where deeper appreciation of evidence will be made out whether the accused is involved in the case or not. The allegations by themselves would not constitute bar for the grant of bail in peculiar circumstances of the case. It has time and again

been held that the 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. Object of trial is to make an accused to face the trial and not to punish an under trial prisoner. Furthermore, basic idea is to enable the accused to answer criminal prosecution against him rather than to rot him behind the bars. Whenever, reasonable doubt would arise with regard to the participation of an accused in the crime, or about the truth or probability of the prosecution case, and the evidence proposed to be produced in support of the charge, accused should not be deprived of benefit of bail.

5. In view of the above, the bail of the applicants is confirmed on the same terms. The bail applications are disposed of accordingly.

Office is directed to place copy of this order in Cr. Bail Application No.468 of 2014.

Judge

Asif