

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.1579 of 2014

Date	Order with signature of Judge
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Present
Mr. Justice Muhammad Ali Mazhar.

Muhammad Tahir GujjarV/s.....The State

03.06.2019

Syed Mehmood Alam Rizvi and Mr.Zakir Leghari, Advocates for the Applicant.

Applicant Muhammad Tahir Gujjar is also present.

Mr.M.Zahid Khan, Assistant Attorney General

Muhammad Ali Mazhar, J: The applicant was granted interim pre-arrest bail on 26.08.2014 in FIR No.54/2013 lodged under Section 409, 420, 468, 471, 109 PPC read with Section 5(2) of PCA-II, 1947 read with Section 3 and 4 of AML, Act, VII of 2010 at P.s. FIA, (CC) Karachi.

2. Learned counsel for the applicant argued that the applicant is Sub-Inspector in FIA and his name was not mentioned in the FIR, but in the final challan on the basis of statement of Approver Muhammad Firdous, he was implicated. Learned counsel for the applicant produced a copy of office order dated 12.11.2018 passed on Departmental Appeal of the present applicant. He further submits that the applicant was dismissed from service but the appellate authority modified the order of major penalty of dismissal from service to minor penalty of censure and reinstated the applicant in service with effect from the date of his dismissal i.e. 30.9.2014. The intervening period was treated as leave. In paragraph 5 of this office order it is stated that the charges against the applicant were not proved with substantive evidence, hence the major penalty

awarded i.e. dismissal from service was disproportionate to the quantum of guilt.

3. Learned counsel further argued that the applicant has been falsely implicated in this case which requires further inquiry as mere implication of the applicant on the basis of 164 Cr.P.C. statement of the Approver does not amount to guilt unless it is substantially proved through evidence. He further argued that many accused are on bail, so keeping in view the rule of consistency, the applicant is also entitled for confirmation of bail.

4. Learned Assistant Attorney General has no objection. He further submits that the applicant has already granted bail and he is no more required for investigation by the I.O. as the final charge sheet has already been submitted.

5. Arguments heard. I have seen the final charge sheet which is available at page-47 of the court file in the same crime. In second last paragraph of the charge sheet it is stated that there are sufficient documentary evidence as well as oral evidence, collected during the course of investigation, which clearly established that Approver Muhammad Firdous had managed the fake and forged claim documents in respect of above fake and fictitious firms and in active connivance of accused Muhammad Tahir Gujjar, accused Abdul Karim Daupota, accused Abdul Kabir Kazi and accused Abid Jawed Akbar succeeded to get 06 Government cheques on account of Freight subsidy on live seafood from TDAP, which is to be seen at the time of evidence whether the statement of Approver recorded under Section 164 Cr.P.C. is trust worthy or not and whether the persons who have been involved by the Approver are guilty or the Approver have implicated them to save his skin. Admittedly in the final charge sheet the main allegations are against him that he managed fake and forged claim documents, thereafter, he became Approver in this case. In the trial court the charge has already been

framed 03 years back and none of the witnesses have been examined by the prosecution. It is further apparent from the final charge sheet that Abid Javed Akbar, Abdul Kabir Kazi are already on bail, whereas during pendency of this bail application Kashif Alam and Abdul Karim Daupota have already granted bail and whereas Sarfraz and Jehanzeb Siddiqui are also on bail.

6. 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 and 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.

7. In view of the above, the bail is confirmed on the same terms. The bail application is disposed of accordingly.

Judge