

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

Cr. Bail Appln No.1442 of 2013

| Date | Order with signature of Judge |
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Present

Mr. Justice Muhammad Ali Mazhar.

Shaikh Muhammad Kalam.....vs.....State

03.06.2019

Applicant is present a/w his counsel Khawaja Saiful Islam, Advocate.

Mr. M. Zahid Khan, Assistant Attorney General.

Muhammad Ali Mazhar, J: The applicant was granted interim bail by this court on 19.11.2013 in Crime No.31/2013 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 subject to furnishing solvent surety in the sum of Rs.100,000/-. The learned counsel pointed out the copy of FIR which is available at page 17. The applicant is proprietor of M/s. S.K. Enterprises and the allegations against him are that in collusion, connivance and in abetment of each other accused persons such as Akhlaq Hussain, Mian Muhammad Tariq, Mirchoomal Khatri, Project Officer Freight Subsidy TDAP, Javed Anwar Khan, the then Director General (Facilitation Division)/Secretary TDAP, Abdul Karim Daudpota, the then Director General TDAP, Tariq Iqbal Puri, the then Chief Executive TDAP, Auditors Adnan Zaman, Asim Rizwani, Younus Rizwani, Najmul Haq, AVP Manager Foreign Exchange NBP Farhan Junejo and Faisal Khan and others the applicant misappropriated and embezzled Rs.23,220,494/- through fraudulent means and caused wrongful loss to the Government exchequer. The learned counsel argued that challan has been submitted in the trial court and the charge has already been framed on 12.09.2014 but no evidence has been recorded so far. The learned counsel submits that in the same crime accused Javed Anwar Khan, Abdul Karim Daudpota, Mirchoomal Khatri, Tariq Iqbal Puri, Adnan Zaman,

Asim Rizwani, Younus Rizwani, Najmul Haq and Faisal Siddique Khan have already been granted bail. The learned counsel submits that keeping in view the rule of consistency the present applicant is also entitled for confirmation of his bail and his case requires further inquiry.

2. The learned Assistant Attorney General argued that the co-accused named above have already been granted bail, therefore, according to him the present applicant is also entitled for the confirmation of his bail keeping in view the rule of consistency and he concedes his no objection if the bail is confirmed.

3. 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 object of trial is to make an accused to face the trial and not to punish an under trial prisoner. 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.

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

Judge