

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.2047 of 2014

Date

Order with signature of Judge

Present

Mr. Justice Muhammad Ali Mazhar.

Ms.Saropi BaiV/s.....The State

13-06-2019

Mr.Abdul Hafeez, Advocate for the Applicant.

Applicant is present in person.

Mr.Kafeel Ahmed Abassi, D.A.G.

Muhammad Ali Mazhar, J: Learned counsel for the applicant argued that the name of the present applicant was not mentioned in the FIR nor in the interim charge sheet, however, in the supplementary final charge sheet her name was included with the allegation that the present applicant is proprietor of R.S. International who received proceeds of crime through channelizing different firms/companies to M/s.R.S. International which were dealing to the export of Rice. The said firm used to purchase Rice from different Brokers of Rice on credit basis. At page 3 of the charge sheet it has been mentioned that 03 times a sum of Rs.1,778,800/- (each) was transferred online from the account of fake M/s.Zahooruddin & Sons to Broker/exporters of Rice. The applicant knowingly well that this amount was proceeds of crime from fake firm account, paid this amount to Broker to process Rice purchase.

2. Learned counsel for the applicant further pointed out the bail order dated 23.9.2014 passed in Cr.Bail Application Nos.1431, 1432 and 1433 of 2013, which bail applications

were filed by Mirchoomal Khatri husband of the present applicant. He subsequently pointed out page 4 of the bail order in which FIR No.11 has been discussed in the following terms:-

“As far as crime No.11 is concerned, the learned D.A.G. shown me Final Charge Sheet and at page No.13, three cheques are mentioned amounting to Rs.17,78,800/- each but this amount was credited in the account of Akash & Co., Mukesh Kumar and Anand Broker and no evidence is available at this stage to attribute that this amount was paid to R.S. International or to the applicant. So keeping in view the order passed in case of Asim Rizwani, learned D.A.G. and the I.O. present in the court conceded to that if the applicant is ready to deposit Rs.24,00,000/- and Rs.15,00,000/- which makes the total amount of Rs.39,00,000/- to T.D.A.P. they have no objection for the grant of bail.”

3. In fact the above amount was attributed in the Crime Nos.9 and 10 of 2013 which the husband of the applicant agreed to deposit to TDAP and not in FIR No.11/2013. Learned counsel further pointed out that the co-accused Mirchoomal Khatri, Asim Rizwani, Tariq Iqbal Puri, Adnan Zaman, Younis Rizwani and Farhan Rasheed are already on bail including Mirza Karim Baig the then Secretary, TDAP, therefore, keeping in view the rule of consistency, he requests that the bail of the present applicant may be confirmed on the same terms. He further argued that the charge has been framed but no evidence has been recorded by the trial court and the case requires further inquiry.

4. The learned D.A.G. argued that one co-accused was granted bail through bail order dated 23.9.2014 passed in Cr.Bail Application Nos.1431, 1432 and 1433 of 2013 filed by the husband of the present applicant. He further submits that some other co-accused are already on bail, therefore, keeping in view the rule of consistency he has no objection if the bail of the present applicant is confirmed.

5. The above portion in bail order of applicant's husband is significant to hold that the case requires further inquiry and

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.

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

Judge

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