

ORDER-SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Spl. CrI. Bail Application No. 126 of 2019
 Spl. CrI. Bail Application No. 127 of 2019
 Spl. CrI. Bail Application No. 128 of 2019

Date of hearing	Order with signature of Judge
-----------------	-------------------------------

Abid Ashraf & others. Applicants.
 Versus
 The State. Respondent.

FOR HEARING OF BAIL APPLICATION.

Date of hearing
 as well as short order : 19.11.2019

Applicants Abid Ashraf, Shams-ur-Rehman and Amash Shahid through Mr.Muhammad Junaid Farooqui, advocate.

Respondent the State through Mr. Ashiq Ali Anwar Rana, advocate.

ORDER

FAHIM AHMED SIDDIQUI, J:- In all the
 aforementioned special criminal bail applications, the allegations
 are similar in nature, while in special criminal bail applications
 Nos.126 and 127 of 2019 the three nominated accused persons
 are identical, while in special criminal bail application No. 128 of
 2019 the only nominated accused is also common in the remaining
 two bail applications, as such this single order will suffice for
 disposal of all these three special criminal bail applications.

2. The prosecution has lodged three different FIRs. FIR No. ASO-300/2019 u/s 156(1) {8 & 89} is the subject matter of Special Criminal Bail Application No. 126 of 2019, filed on behalf of the applicants namely Abid Ashraf, Shams-ur-Rehman and Amash Shahid. FIR No. ASO-166/2019 u/s 156(1) {8 & 89} is the subject matter of Special Criminal Bail Application No.127/2019, filed on behalf of the same set of applicants. FIR No. ASO-300/2019 u/s 156(1) {8 & 89} is the subject matter of Special Criminal Bail Application No.128/2019, filed on behalf of one of the aforementioned applicants namely Abid Ashraf. All the three Special Criminal Bail Applications have already been declined by the learned trial Court, as such the applicants approached before this Court with a prayer of their release on bail in the aforementioned accused persons.

3. The allegations against the applicants / accused, as mentioned in the FIRs, are that on different occasions some smuggled and non-duty paid valuable and/or expensive vehicles were recovered and the applicants are involved in the smuggling of the said vehicles; as such the said vehicles were detained/impounded and subsequently, the applicants/accused were also arrested.

4. The learned counsel for the applicants preferred his submissions at length. Briefly, he argues that the applicants are innocent and they have been falsely implicated in the instant

cases. The alleged vehicles were not recovered from the exclusive possession of the applicants. In the instant case, the applicants were arrested after a couple of months of the registration of F.I.Rs. After recovery of the so-called smuggled vehicles, the main accused persons were let off and the applicants have been involved in their place to fill up lacuna. Since, the final report (challan) has been submitted; as such the applicants are no more required.

5. Mr. Ashique Ali Rana, Special Prosecutor Customs, while opposing the instant bail applications, argued at length. The gist of his arguments is that the applicants are belonging to the same family and they are running a racket of smuggled vehicles. The prosecution has involved them after thorough investigation and the prosecution can prove their case against the applicants. The reason, for not involving the persons from whom the vehicles were recovered, is that they were persuaded by the applicants to purchase the said vehicles, as such they had nothing to do with the smuggling of the said vehicles.

6. I have pondered over the submissions made before me by the learned counsel for the applicants as well as from the prosecution side and scanned the available material.

7. It is a fact that the applicants have been arrested after a considerable delay of lodging of F.I.Rs. This delay creates doubt regarding the prosecution case and it is the established legal norm

that benefit of the doubt is given to the accused persons even at the bail stage. In the present case, the arrest of the accused persons was taking place at the post-smuggling stage, and the plea on behalf of the applicants that they were arrested after letting off the real culprits also attracts the possibility of their false involvement. In the instant matter, the final report (challan) has been submitted, which indicates that the accused persons are no more required for investigation. It is also settled legal principle that bail cannot be refused to the accused persons only on the ground that they are involved in some non-bailable offence, as it amounts to punishment in advance.

8. Considering the above-mentioned facts and circumstances of the case, the applicants were admitted to bail in the sum of Rs.2,00,000/- (Rupees Two Lacs Only) each and PR-Bond in the like amount to the entire satisfaction of the trial Court through my short order dated 19-11-2019 and these are the reasons for the same.

Dated:_____

JUDGE