

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1893 of 2021
Criminal Bail Application No.2010 of 2021

Date *Order with signature of Judge*

For hearing of Bail Application.

02.02.2022

Mr. Waqar Alam Abbasi, Advocate along with Applicant (on bail).
[Criminal Bail Application No.1893/2021]

Mr. Rasheed Ashraf, Advocate for the Applicant.
[Criminal Bail Application No.2010/2021]

Mr. Talib Ali Memon, Assistant Prosecutor General, Sindh.

Mr. Fareed Ahmed, Advocate for the Complainant.

ORDER

Muhammad Saleem Jessar, J:- By this common order, I propose to dispose of these two bail applications as the both arise out of Crime No.1209/2021 registered with P.S Korangi Industrial Area, Karachi, under Section 420/406/34 PPC. The bail plea preferred by the applicants before first forum were declined through orders dated 10.09.2021 and 23.09.2021. The case has been challaned by the police which is now pending for trial before the Court of Judicial Magistrate-XXX, Karachi (East) vide Criminal Case No.3067/2021 (re-the State Versus Natiq and others).

2. Since the facts of the prosecution case are already mentioned in the FIR as well as orders passed by the trial Court, which are part and parcel of the Court file, therefore, there is no need to reproduce the same.

3. The main contention of learned counsel for the applicants is that the offence with which applicants stand charged, carries maximum punishment up to seven years; hence, does not exceed limits of prohibitory clause of section 497 Cr.P.C. Next contention of learned counsel is that entire prosecution evidence is based upon documents which are in custody of the prosecution itself, therefore, question of their absconding or tampering with prosecution evidence, does not arise. Lastly submit that the trial has commenced and the statement of complainant has been recorded on 25.01.2022 vide Exh.3.

4. On the other hand, learned Assistant P.G, Sindh, appearing for the State, opposes the bail application on the ground that accused/applicants are nominated in the FIR; besides, they have committed fraud with the complainant.

He; however, does not controvert the fact that the offence with which they have been charged, carries maximum punishment up to seven years.

5. Learned counsel for the complainant also opposes the bail application on the ground that transaction of the amount was made through the accounts being maintained by the applicants, therefore, they are not entitled for the bail. He; however, admits that entire prosecution evidence is in shape of documents, which is yet to be adduced by the prosecution and then is to be thrashed out by the trial Court. He further admits that the offence with which applicants stand charged, does not exceed limits of prohibitory clause of section 497 Cr.P.C.

6. **Heard arguments and perused record.** Admittedly, the case is being tried by the Court of Judicial Magistrate where after recording evidence of the parties, if prosecution may succeed to prove its charge against them even then punishment of more than three years cannot be visualized. Moreover, the offence with which applicants have been charged, does not exceed limits of prohibitory clause of section 497 Cr.P.C.

7. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, case against applicants requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C. Consequently, both bail application are hereby allowed. Interim bail granted earlier to applicant **Kamal Anwar son of Nawab Anwar Ahmed** on 06.10.2021 in Criminal Bail Application No.1893 of 2021, is hereby confirmed on same terms and conditions. However, Applicant **Muhammad Natiq Khan son of Muhammad Ali Hassan Khan** in Criminal Bail Application No.2010 of 2021, shall be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousands Only) and PR Bond in the like amount to the satisfaction of learned trial Court

8. Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

9. Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

10. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

Office to place copy of this order in connected bail application.

JUDGE

Zulfiqar/P.A