

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Bail Application No. 209 of 2022

Applicant : Ayaz s/o. Haji Muhammad Siddique, through
Mr. Liaquat Ali Khan, advocate

Respondent : The State, through Mr. Chaudhry Waseem Akhtar,
Assistant Attorney General *along with complainant
Barkat Ali & S.I. Saba Jafri of F.I.A., A.H.T.C., Karachi*

Date of hearing : 24.02.2022
Date of order : 24.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Applicant/accused Ayaz s/o. Haji Muhammad Siddique being abortive to get the relief of post-arrest bail from Special Judge (Central)-I, Karachi in Case No. 03 of 2022 vide order dated 27.01.2022, through instant application seeks the same relief from this Court in Crime/FIR No. 08 of 2022, registered at P.S. F.I.A., A.H.T.C., Karachi u/sec. 22(b), Emigration Ordinance, 1979 (*the "Ordinance"*).

2. As per F.I.R., lodged by the complainant Barkat Ali on 11.01.2022, the applicant received Rs.400,000.00 from him and Rs.200,000.00 from his uncle Mustafa Khan on the pretext of providing Visa of Saudi Arabia to the complainant but he failed to fulfill his obligation and returning the said amount, for that he was booked in the aforesaid F.I.R.

3. The learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case by the complainant; that the applicant is working as labour in the Saudi Arabia and he is not an agent; that section 22(b) of the Ordinance, is not applicable, as the applicant has not handed over any document to the applicant regarding visa; that the applicant does not know the complainant and he only knows his uncle; that the applicant has not given his account number to any person nor any amount has been received by him through his account; that the alleged amount was sent by the complainant to one Faheem; however, the said person has not been nominated by the complainant in the F.I.R., hence, the applicant is entitled for the bail on the ground of further inquiry.

4. Conversely, learned Assistant Attorney General resists grant of bail to applicant on the ground that he was nominated in the F.I.R. with specific role of demanding and

receiving the alleged money for providing foreign employment, without having license under section 12 of the Ordinance and thereby he committed the alleged offence, which is punishable with imprisonment for a term which may extend to fourteen years; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled for the concession of bail.

5. I have given due consideration to the arguments advanced by both the parties and also perused the material available on record.

6. Section 12 of the Ordinance stipulates that whoever desires to engage or to assist or to recruit any person to emigrate should apply for a licence to the Federal Government for Overseas Employment Promotion License. While section 22 (b) *ibid* provides punishment with imprisonment for a term which may extent to fourteen years for the person who not being a promoter, demands or receives, or attempt to receive valuable thing for providing employment in any country, beyond the limit of Pakistan. As such, the alleged offence falls within prohibitory clause of section 497, Cr.P.C.

7. Perusal of the record shows that the complainant was desirous to precede Saudi Arabia for the purpose of employment. In this connection, he discussed with his paternal uncle, namely, Mustafa Khan, who on 15.02.2021 discussed with the applicant who was working in Saudi Arabia at that time. The applicant demanded Rs.600,000/- to arrange employment for the complainant in Saudi Arabia. The uncle of the complainant paid an amount of Rs.200,000/- in cash to applicant in Saudi Arabia. Besides, on the directions of the applicant, the complainant also credited, on 15.03.2021, Rs.400,000/- in Account No.000237966674 of one Muhammad Fahim, maintained at United Bank Ltd., Chhabri Bala Branch, Dera Ghazi Khan. Records shows that said branch of UBL vide letter, dated 01.11.2021 provided the copies of CNIC of complainant (*as depositor of amount*) and relevant documents of Account No.000237966674 of Muhammad Fahim. The statement of account shows the credit of Rs.400,000/- cash on 15.03.2021. The said account holder Muhammad Fahim confirmed that the said amount was got deposited for the applicant, which was encashed on the same day and handed over to applicant through his family members. The investigating officer recorded the statements of said Muhammad Fahim

and uncle of the complainant Mustafa Khan, who have fully supported the prosecution case against the applicant.

8. From the tentative assessment of the evidence on record, I am of the view that, prima facie, sufficient evidence is available on record against the applicant to connect him with the commission of alleged offence, carrying punishment with imprisonment which may extent to fourteen years. Every hypothetical question which could be imagined would not make it a case of further enquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence. Hence, this bail application is dismissed.

9. Needless to mention here that the observations made herein-above are tentative in nature and would not influence the trial Court while deciding the case of accused on merits.

JUDGE

Athar Zai