

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 434 of 2021**

Date Order with signature of Judge

For hearing of bail application.

Date of hearing: **18th March, 2021**

Date of announcement: **18th March, 2021.**

Mr. Zakir Hussain Bughio, Advocate for applicant/accused
Mr. Muhammad Shahid Khan, Special Prosecutor Railways Police
a/w SIP SHO Tanveer Anjum, RPS Landhi, Karachi.
Syed Zahoor Shah, D.P.G, Sindh.
Mr. Mukesh Kumar, Asstt. Attorney General.

Kausar Sultana Hussain, J:- Through instant Bail Application, ***applicant/accused Mst. Kausar*** seeks her release on post arrest bail in case Crime No. 02 of 2018, registered at PS Railway Police, Landhi Karachi under Section 6-9/C, R/W Section 14/15 of the CNS Act, 1997. The bail plea raised by him before the learned trial Court, which was turned down vide order dated 15.06.2019. The challan of the case has been submitted by the police and the same is now pending for trial before the Court of learned IInd Special Judge, (C.N.S) at Karachi (The State versus Kausar and others).

2. I have heard arguments of both the sides and perused the material available on record. From the perusal of record, it reveals that prior to filing of this bail application, the co-accused Mumtaz Azam, Muhammad Saleem and Fozia Akber have also filed their bail applications before this Court, and time and again the learned trial Court was directed to dispose of the matter, but the learned trial Court could not conclude the matter within stipulated time, hence this Court has granted bail to the above named co-accused persons. Now the lady applicant/accused has filed the present bail

application, on the grounds of statutory delay and rule of consistency.

3. From the perusal of record, it reveals that the applicant/accused is behind the bar since the date of her arrest i.e. 07.03.2018 and despite clear directions of this Court dated 27.9.2018, 15.7.2019 and 06.04.2020 issued in earlier Bail Applications No. 1229 of 2018, 614 of 2019 and 119 of 2020 could not conclude the case within stipulated time, I therefore reached at the irresistible conclusion that the applicant/accused has succeeded to establish the grant of bail on statutory delay in trial and in our country liberty of individual has been guaranteed by the Constitution beside the fact that speedy trial is inalienable right of every accused person, therefore, even if the provision of section 497 Cr.P.C in ordinary course is not applicable, the broader principle of the same can be pressed in hardship cases to provide relief to a deserving accused person incarcerated in jail for a shockingly long period. An accused person cannot be left at the mercy of the prosecution to rot in jail for an indefinite period. The delay in the conclusion of trial of detained prisoner/s cannot be lightly ignored provided it was not caused due to any act or omission of accused. In the instant case prosecution during the period of about three years hardly succeeded to examine one prosecution witness and there remain thirteen prosecution witnesses those are yet to be examined by the prosecution and certainly it shall take sufficient time. Moreover, co-accused namely Mst. Fozia Akbar, Mst. Saba Parveen, Mumtaz Azam and Muhammad Saleem have already been granted bail by this Court, vide orders dated 14.09.2020, 13.01.2021 and 08.03.2021

therefore, she is also entitled for concession of bail on the rule of consistency.

4. In sequel of above discussion, the instant application is **allowed**; the applicant/accused is enlarged on bail, subject to her furnishing solvent surety in the sum of **Rs.1,00,000/-** (One Hundred Thousand only) and P.R. bond of the like amount to the satisfaction of the learned trial Court.

5. Before parting, it needs not to make clarification that the observations recorded above are tentative in nature and will not prejudice the case of either party.

JUDGE

Faheem/PA