

## **IN THE HIGH COURT OF SINDH AT KARACHI**

### **CR. BAIL APPLICATION NO.145/2019**

Applicant : Muhammad Sultan,  
through Syed Hassan Feroz, advocate.

Respondent : The state,  
through Mr. Siraj Ali Chandio, Addl. P.G.  
Mr. Qamar Raza Khokhar advocate for complainant.

Date of hearing : 08.02.2019.

Date of short order : 08.02.2019.

### **ORDER**

**SALAHUDDIN PANHWAR, J.** Applicant seeks post arrest bail in FIR No.2/2019 under section 161 PPC read with section 5(2) of Prevention of Corruption Act 1947. Facts for disposal of instant bail application are that applicant was arrested in a trap and recovery of Rs.50,000/- paid by complainant of FIR No.233/2018 under section 496-A/34 PPC, PS Bin Qasim, was effected. Case of the prosecution is that applicant, being investigation officer, demanded for illegal gratification of Rs.100,000/- from the complainant with term that he will send up accused persons, in case of failure the case can be disposed of under C-class.

2. Admittedly, statement of abductee was recorded prior to the present incident wherein abductee Nazia categorically contended that none has abducted her and she has contracted marriage at her own freewill and FIR is false. Such statement was in the knowledge of the complainant, hence in any manner such plea of assurance by applicant / accused and acceptance

thereof is not appealable to a prudent mind thereby making the root of the charge against the applicant / accused as one, calling for further probe. It may also be added that in such like cases, mere recovery of money is not sufficient unless it finds link with promised illegal action or omission towards a legal obligation/duty. Needless to add that tentative assessment in finding *prima facie* existence of reasonable grounds or absence thereof is completely different from that of evaluation of evidence in determining guilt or innocence. This has been the reason that it is now trite law that whenever there is any benefit of doubt in prosecution case the benefit thereof is to be extended to accused *even* at bail stage. Since, in the instant case the root (*reason for bribe*) appears to be shaky hence it was always in fairness to extend the benefit thereof to applicant / accused till determination of his guilt.

3. Further, in trap proceedings no one witnessed while delivering the recovered amount to the applicant; there is no record of any such allegation against the applicant / accused nor the physical custody of the applicant / accused has been claimed by prosecution for any substantive purpose, therefore, applicant / accused was found to have succeeded in making out a case for grant of bail. There has been pleaded no apprehension of applicant / accused being absconded away. These have been the reasons because of which the applicant / accused was granted post arrest bail by order date 08.02.2019.

**J U D G E**

IK/PA