

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 1618 of 2021

Applicant : Munir Ahmed Khan s/o Jahangir Khan,
through Mr. Munawar Ali Memon, advocate

Respondent : The State, through Mr. Chaudhry Waseem
Akhtar, Assistant Attorney General.

Date of hearing : 15.02.2022

Date of order : 15.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Munir Ahmed Khan s/o Jahangir Khan seeks post-arrest bail in Crime No. 01 of 2021, registered at P.S. F.I.A., Corporate Crime Circle, Karachi, under sections 3 & 4 of the Anti-Money Laundering Act, 2010 (Amended by Act XXX of 2020) (“**the Act**”). His earlier application for the same relief in Case No. 01/2021 was dismissed by the learned Special Judge (Central-I), Karachi, vide order dated 04.05.2021.

2. It is alleged that the applicant, the then Warehouse Incharge (Commodities), Utility Stores Corporation (Pvt.) Ltd (“**USC**”) laundered crime proceeds, generated from misappropriation / embezzlement of funds of USC i.e. Rs. 109,862,247/- by placing the same in his bank A/c No. 095237100380 maintained at UBL, Korangi K-Area Branch during 23.03.2011 to 30.06.2020 and layered the crime proceeds by transferring the same in different bank accounts and finally integrated some of them by acquiring Plot No.C-72, situated in Dar-us-Salam Cooperative Society, Korangi Karachi and Plot No.64, Precinct No.32-D (Registration No.BTKP-KKV-1176), Bahria Town, Karachi for that he was booked in the aforesaid F.I.R. He was already arrested on 05.01.2021 in connection with F.I.R. No.22/2020, registered at P.S. F.I.A. CCC, Karachi.

3. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case; that there is no evidence

that the applicant acquired any property from alleged crime proceeds; that the F.I.R. was registered on 05.01.2021 when the applicant was already in custody, while show-cause notice was issued to him on 28.01.2021, which shows that the prosecution had already made up mind to prosecute him in another case; that the Bank Account of the applicant was already declared; however, the F.I.R. was lodged without examination of his Bank Statement and calling explanation from him; that the applicant was Warehouse Incharge and according to account manual of the USC, he was entitled to impress money for warehouse and most of the amount credited in his account was through USC cheques, which were issued after fulfillment of all formalities and requisite audit; that audits were conducted periodically and there was no detection of any of the auditors regarding issuance of impress money cheques in the name of applicant; that no evidence is available with the prosecution to connect the applicant with the crime proceed in respect of Crime No.22/2020 as the said crime pertains to Rs.22,228,319/- against seven accused persons, while the properties mentioned in the instant F.I.R. were purchased, acquired and disposed of well before the alleged crime; that the alleged offences do not fall within the prohibitory clause of section 497 Cr.P.C.; that the instant F.I.R. was registered in violation of Section 3, 8, 9 and 16 of the Act; that case of prosecution consists of documentary evidence which is in possession of the F.I.A. and there is no apprehension of its tempering with at the hands of applicant; that the applicant is in judicial custody since 05.01.2021 and no more required by the F.I.A. for investigation; therefore, no purpose would be served for keeping him in custody; that the present case falls within the ambit of Section 497 (2) Cr.P.C. as there is no reasonable grounds for believing that the applicant is guilty of the alleged offences as there are sufficient grounds for further inquiry into his involvement in this case.

4. On the other hand, learned Assistant Attorney General has opposed the grant of bail to applicant on the ground that the applicant has caused loss of

huge amount to the government exchequer by misappropriating the funds of USC and purchased properties from crime proceeds; that sufficient documentary evidence to connect the applicant with the commission of the alleged offence is available with the prosecution; hence, he is not entitled for the concession of bail; as such, the instant Cr. Bail Application is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It is alleged in the Interim-Complaint filed by the Investigating Officer under section 21 (2) (a) of the Act before the trial Court that the present F.I.R. is outcome of F.I.R. No. 22/2020, registered by F.I.A. CCC, Karachi on the allegation of misappropriation/embezzlement of Rs. 22,228,319/- from Pakistan Secretariat Store, USC. It is further alleged that the applicant purchased aforesaid Plot No.C-72 at Rs. 51,00,000/- in the year 2012 and paid two installments, each amounting to Rs. 152,000/-from his bank account for alleged Plot No.64, Precinct No.32-D in the year 2016 and 2017 from proceeds of crime.

7. Under section 3 of the Act, a person shall be guilty of offence of money laundering, if he (a) acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime; (b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime; (c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or (d) participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c).

8. The main allegation against the applicant is that he purchased aforesaid plots from proceeds of crime; however, the guilt of the applicant is yet to be

proved at the trial in main crime/F.I.R. No. 22/2020, lodged under sections 420, 468, 471, 109, 34, P.P.C., r/w section 5 (2) PCA-II, 1947 at F.I.A. CCC, Karachi for alleged misappropriation/embezzlement of Rs. 22,228,319/- by the applicant being an employee/ Warehouse Incharge (Commodities) USC. It is not the matter of mere presumption or assumption but of quality evidence on record to justify the allegations that the aforesaid plots/ properties acquired by the applicant is proceeds of crime.

9. It has been held by the Apex Court in the case of *Manzoor and 4 other v. State (PLD 1972 SC 81)*, which has been followed by the Apex Court in the case of *Abdul Aziz Khan Niazi v. The State through Chairman, NAB, Islamabad (PLD 2003 SC 668)*, as under:-

“It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run.”

10. For the foregoing facts and reasons, the guilt of the applicant requires further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. entitling him for the grant of bail. Accordingly, instant application is allowed and the applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.3,00,000/- (*Rupees Three Lacs only*) and PR bond in like amount to the satisfaction of the trial Court.

11. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case the applicant misuses the concession of

bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

12. Above are the reasons of my short order dated 15.02.2022

JUDGE

Athar Zai