

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Present:-

Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Agha Faisal.

Cr. B.A. No.2123 of 2021

Aisha Mirza

Versus

The State

Cr. B.A. No2129 of 2021

Adeel Lateef

Versus

The State

Cr. B.A. No.15 of 2022

Asad Khan

Versus

The State

Date of hearing: **31.03.2022**

Date of order: **31.03.2022**

None present for applicant in Cr. B.A.2123/2021.

Mr. Shamshad Ali Qureshi, advocate for applicant in Cr. B.A. 2129/2021.

Mr, Muhammad Nizar Tanoli, advocate for applicant in Cr. No.15/2022.

Mr. Muhammad Mustafa Younus advocate for J.S. Bank.

Mr. Ali Haider Saleem, Addl. P.G. a/w P.I Abdul Majeed, P.S Aziz Bhatti.

Mr. Irfan Ahmed Memon, Assistant Attorney General.

ORDER

Muhammad Iqbal Kalhoro, J:- By this common order, listed bail applications filed for post-arrest bail are disposed of.

2. The facts in brief are that a routine audit of JS Bank, Gulistane-e-Johar Branch, Karachi on 02.08.2021 led to discovery of applicants' connivance with each other in sanctioning gold finance loan of more than Rs.40,000,000/- (Rupees Forty Crores) to different customers, most of them dummy, against fake/ artificial gold deposited with the Bank. Such information, when communicated to the head office, resulted in a visit of senior officials of the bank who checked the bags of gold kept in lockers and found the same containing fake/artificial gold. During the investigation, the role of each applicant was traced out, they were arrested, and have been referred to the court for a trial.

3. Learned defence counsel have argued that applicants are innocent and have been falsely implicated in this case; no incriminating evidence has been collected against them; the offences do not fall within prohibitory clause under section 497(i) Cr.P.C and in any case the applicants have no nexus with the sanctioning of gold finance loans and no evidence in this regard has been collected either by the prosecution. In support of contentions, they have relied upon the case laws reported in **PLD 2017 SC 733; 2021 YLR 328; PLD 2021 (Sindh) 173(d); 2021 YLR Note 50 (a)(b); 2021 YLR Note 81 and 2021 YLR 328.**

4. On the other hand, learned Counsel for the Bank and learned Additional Prosecutor General have opposed the bail plea of applicants stating that they are the bank officials through whom the sanction of gold finance loan in favour of fake/dummy customers was proposed, sanctioned and disbursed. Not only in the investigation, but in the departmental proceedings as well, they were found involved in this scam in which more than Rs.40,000,000/- (Rupees Forty Crores) of the bank have been misappropriated.

5. We have heard the parties and gone through the material available on record including the case laws cited at bar. A perusal of FIR shows that the bank officials in collusion with private persons were able to get different loans sanctioned against the artificial gold in the name of dummy customers. And in some cases by using CNICs of the persons lured under the “*Ahsas Program*” for this purpose. This scam surfaced only after audit of the bank concerned was conducted by the officers of the head office and the bags of gold kept in lockers checked and found containing artificial gold. Applicant Adeel Lateef (Bail Application No.2129/2021) was posted as Gold Finance Executive Officer in Gulshan-e-Iqbal Branch of J.S Bank was tasked to process cases for such purpose i.e Gold Finance Loans. Although he did so, but of those only found in the investigation pertaining to fake customers. Applicant Asad Khan (Bail Application No.15/2022) was posted as Branch Manager, J.S Bank, Gulshan-e-Iqbal Branch was found to have facilitated co-accused in the process of obtaining Gold Finance Loan through forged documents.

6. It appears that both the applicants were concerned one or the other way with process of documentization, sanctioning and

disbursing the amounts of such loans to the customers and in the course were required to record videos of such transactions to maintain transparency but they failed to do so. In the scam, not only the instant FIR was registered but FIR No.987/2021 involving misappropriation of more than Rs.50,000,000/- (Rupees Fifty Crores) has also been lodged against the bank officials connected with such process like applicants. Learned defence counsel tried to impress that a piecemeal analysis of the facts be carried on to appreciate guilt of the accused which we are afraid cannot be undertaken for making a decision in post-arrest bail applications which requires only tentative assessment of the material available on the record. Prima-facie applicants appear to be connected with the offence alleged against them. Moreover, we have seen, mentioned in impugned order, that applicants had filed applications for bail in the trial court before submission of the final challan which prosecution has filed and the charge has been framed. Now the case is ripe for recording of prosecution evidence.

7. In such circumstances, we while dismissing these applications, deem it fit to direct the trial court to examine material witnesses within a period of three months. After which, in any case, applicants would be at liberty to file a fresh application for bail before the trial court, which however, if filed, shall be decided on its own merits. However, bail application No.2123/2021 filed by Aisha Mirza is dismissed in non-prosecution, as no one on behalf of her has been appearing for the last many dates.

8. The bail applications are disposed of in the above terms; the findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

JUDGE

JUDGE

Ayaz Gul