

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 1620 of 2021
Cr. Bail Application No. 1682 of 2021
Cr. Bail Application No. 1799 of 2021
Cr. Bail Application No. 1909 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
-------------	---------------------------------------

For hearing of bail application.

16th November, 2021

Mr. S.M. Nehal Hashmi, Advocate for applicant in Cr.B.A. No.1620/2021.
M/s. Salahuddin Gandapur and Syed Zainuddin, Advocates for applicant in Cr.B.A. No.1682/2021.
Mr. Abdul Qayoom, Advocate for applicant in Cr.B.A. No.1799/2021.
M/s. Jamshed A. Shaikh, Ms. Gulnaz Kausar and Mohsin Ali Soomro, Advocates for applicant in Cr.B.A. No.1909/2021.
Mr. Muhammad Ahmed, Assistant Attorney General a/w Javed Babar, I.O. FIA, CC, Karachi.

=====

Omar Sial, J.: Nauman Ahmed Siddiqui (**Siddiqui**) was in the business of trading in medicines. According to the F.I.A. he traded in medicines which were not licensed and in fact the business is simply a cover up to facilitate terror financing. An inquiry in his suspicious activities (Enquiry No. 9 of 2021) was initiated by the F.I.A.'s Counter Terrorism Wing and was entrusted to Inspector Aqeel Ahmed (Enquiry Officer) and Inspector Pervaiz Akhter (In Charge CTW, Karachi). Siddiqui's office and home was searched by the F.I.A. and cash and electronic equipment was seized. A 7 persons, which included Siddiqui, were detained on 22-06-2021 and questioned however all were allowed to go home upon execution of surety bonds. It was suspected that Aqeel Ahmed and Pervaiz Akhter had released the suspects upon receiving illegal gratification from Siddiqui. Both officers were questioned by their superiors and their premises searched. On the basis of the forensic examination of the documents and forensic results of the electronic equipment which was seized, the F.I.A. concluded that a demand of Rs. 120 million was made by Aqeel Ahmed and Pervaiz Akhter. Several other irregularities and suspicious activities of the 2 officers on dealing with Siddiqui's case were also discovered. In view of the new discoveries made by

F.I.A., F.I.R. 13 of 2021 under sections 161, 165-A and 109 P.P.C. read with section 5(2) of the Prevention of Corruption Act, 1947 was registered.

2. During the whole saga, it appears that several persons intervened on behalf of Siddiqui to convince Aqeel Ahmed and Pervaiz Akhter to facilitate the release of Siddiqui and reduce the money being demanded of Siddiqui. This is where the remaining applicants i.e. Naimatullah Khan, Baqar Ali Khan and Syed Muhammad Atif came in. Their alleged role is as follows:

Naimatullah Khan – He was a Sub-Inspector posted in the Anti-Violent Crime Cell of the police. Call Data Record revealed that he had been in contact with Pervaiz Akhter and that one Syed Ali Naqvi had also recorded a statement in which Naimatullah had been implicated.

Baqar Ali Khan – He was a policeman. The allegation against him is that he was the middleman between Siddiqui and the 2 officers for the purpose of paying the bribe.

Syed Muhammad Atif – He was one person in Karachi who did business with Siddiqui and is accused of also attempting to facilitate Siddiqui's release by contacting some persons abroad.

3. In a nutshell the present case against the applicants is that while conducting an inquiry in the business affairs of Siddiqui, the 2 officers entrusted with the enquiry allegedly sought a bribe of Rs. 120 million from Siddiqui. The other applicants are accused of in one way or the other for attempting that the F.I.A. let go of Siddiqui and trying to convince the 2 F.I.A. officers to reduce the money which they were demanding of Siddiqui.

4. The arguments of the learned counsels for the sake of brevity are not being reproduced but are reflected in my observations below. I noticed however that though the learned Deputy Attorney General argued very well, his arguments were concentrated more on the evidence collected in the terror financing case against Siddiqui and not in this case where a bribe is alleged to have been demanded.

5. The investigating officer of the case confirmed that there is no clear evidence at this stage that the bribe which was being sought by Aqeel Ahmed and Pervaiz Akhter from Siddiqui was actually paid. Hence, there is no money trail

that would establish the same at this stage. The evidence against the applicants is based primarily on call data record of the accused individuals. There was a Rs. 6.5 million that Aqeel and Pervaiz had ostensibly seized from Siddiqui's house but it appears that this was not the bribe money but evidence in the case of terror financing filed against Siddiqui. The investigating officer of the case further apprised the court that an amount of Rs. 10 million had come into the account of Siddiqui. This again is suspected to be in connection with the same charge of terror financing. In any case, it is an admitted position that this amount remained in the account of Siddiqui.

6. The evidence against Syed Muhammad Atif, who is allegedly a business associate of Siddiqui and was picked up by F.I.A., is that he was made to speak on the phone by one of his friends Faheem with 2 individuals in England, who are also allegedly business associates of Siddiqui. The evidence against Naimatullah Khan is that the brother of one of the employees of Siddiqui, who was also picked up by the F.I.A., had approached Naimatullah as he at some point in time worked in the F.I.A. Naimatullah had found out as to what had happened and come back and told the brother that this is a high profile case and that the brother should not intervene in it. Even in the section 164 Cr.P.C. statement recorded by the brother, there is no mention of any bribe. The evidence against Baqar is that he being a policeman had gone to the F.I.A. to also intervene in the case but was arrested when he was there. Prima facie it appears from the evidence gathered against the applicants that after the raid conducted at Siddiqui's office several people were picked up by the F.I.A. and in order to secure their release they have tried their best to intervene. Not an unusual occurrence in our system. However, whether this facilitation was with the motive of brokering a bribe is not clear and requires a further inquiry. It is also yet to be seen whether the applicants were induced, compelled, coerced, or intimidated to offer or give any gratification as is referred to in section 161 for any of the purposes mentioned therein, or any valuable thing without consideration, or for an inadequate consideration, to any such public servant as is referred to in section 165. There case could very well fall within the exception contained in section 165-B P.P.C.

7. The case is based entirely on electronic and documentary evidence which is already in possession of the F.I.A. Tampering with the evidence is therefore not

possible. Investigation in the matter is complete. The case of terror financing is a separate case based on separate evidence and will not be impacted by this case.

8. In view of the above observations the case against the applicants is one of further inquiry. They are therefore admitted to post arrest bail subject to their furnishing solvent sureties in the amount of Rs. 500,000 each and P.R. Bonds in the like amount to the satisfaction of the learned trial court.

JUDGE