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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Criminal Bail Application No. S-52 of 2018

Applicants : (1). Niaz Ali s/o. Muhammad Khan Siyal and
(2). Ghulam Hyder s/o. Khadim Hussain Samijo,
through M/s. Habibullah G. Ghouri & Zahid Hussain
Chandio, advocates, respectively.

Respondent : The State, through Mr. Khadim Hussain Khooharo,
Addl. P.G

Criminal Bail Application No. S-55 of 2018

Applicant : Javed Ahmed s/o. Anwer Ali Hakro, through
Mr. Muhammad Ismail Chandio, Advocate.

Respondent : The State, through Mr. Khadim Hussain Khooharo,
Addl. P.G.

Criminal Bail Application No. S-77 of 2018

Applicant : Mushtaq Ali s/o. Moula Bux Gopang, through
Mr. Ali Nawaz Junejo, Advocate.

Respondent : The State, through Mr. Khadim Hussain Khooharo,
Addl. P.G.

Criminal Bail Application No. S-81 of 2018

Applicant : Ali Hyder s/o. Ismail Khan Rajper, through
Mr. Muhammad Ismail Chandio, Advocate.

Respondent : The State, through Mr. Khadim Hussain Khooharo,
Addl. P.G.

Dates of hearing: 10.08.2018 & 03.09.2018
Date of order: 03.09.2018

ORDER

ZAFAR AHMED RAJPUT, J:- By this common order, I intend to dispose of
above listed four bail applications, as the same have arisen out of same Crime i.e.
F.I.R. No. 01 of 2018 registered at PS ACE, Larkana, under Section 161,467, 468,
471,34 P.P.C. read with Section 5(2) of the Prevention of Corruption Act, 1947.



2. Through criminal bail application Nos. S-52, 55 and 77 of 2018, applicants/accused, named above, have sought pre-arrest bail in aforementioned crime. They were admitted to ad-interim pre-arrest bail by this Court, vide orders dated 30.01.2018, 01.02.2018 and 09.02.2018, respectively. Now they seek confirmation of the same. While, by means of criminal bail application No. S-81 of 2018, applicant/accused, named above, seeks post-arrest bail. Their earlier applications for grant of bail were dismissed by the learned Court of Special Judge (Prov.), Larkana, vide common order dated 29.01.2018.

3. Briefly stated facts of the prosecution case are that, on 17.01.2018, Inspector Ghulam Sarwar Solangi, Circle Officer ACE, Larkana, lodged the aforementioned F.I.R. on behalf of the State in pursuance of order of Anti-Terrorism Court, Sukkur, dated 15.08.2017, alleging therein that in the year 1985/86 Ali Hyder Rajper had purchased agricultural land admeasuring 7-1 acres, situated in S. No. 2 in deh Kalar Taluka Ratodero and such entry No. 170 was recorded in his favour in record of rights, subsequently, he sold out the said land in the year 1992 to Tufail Ali Jatoi in whose favour entry No. 149, dated 01.08.1992, was entered in record of rights. It is case of the prosecution, that after the sale of the said land, accused persons, namely, Niaz Ali Siyal, Mushtaq Ali Gopang and Javed Ahmed Hakro, respectively, the then Mukhtiarkar, Reader to Mukhtiarkar and Tapedar, Taluka Office Ratodero, in collusion with each other issued solvency certificate No.81 dated 02.8.2014 in favor of accused Ali Hyder Rajper, who produced the same before the Court of ATC Sukkur and stood surety for the release of accused persons on bail in Crime No. 195 of 2010, registered at P.S. Ratodero. Thereafter, ATA Court, Sukkur in year 2017 wrote the letters to Mukhtiarkar Ratodero for the verification of the land in respect thereof the said solvency certificate was issued and at that time Ghulam Hyder Samejo was posted as Mukhtiarkar, who malafidely gave false reports to the Court; as such he extended shelter to the above named accused persons.



4. Mr. Habibullah G. Ghouri, learned counsel appearing for applicant No.1 in Criminal Bail Application No. S-52 of 2018 has contended that the signature of applicant No.1, (*Niaz Ali*) on solvency certificate is fake and managed. While, Mr. Zahid Hussain Chandio, learned counsel appearing for applicant No.2 in the said application has maintained that the matter pertains to year 2014, whereas the applicant No.2 (*Ghulam Hyder*) on the relevant date was neither posted as Mukhtiarkar, Taluka Ratodero nor he signed or verify the solvency certificate. They have further contended that the applicants are respectable citizens; they have been implicated in the case malafidely and in case they are not admitted to pre-arrest bail, they would be subject to harassment.

5. Mr. Muhammad Ismail Chandio, learned counsel appearing for applicants in Criminal Bail Applications No. S-55 and S-81 of 2018, has argued that no report was called from applicant/Tapedar Javed Ahmed regarding issuance of solvency certificate by the Mukhtiarkar, Ratodero nor any consultation was made with him, nor he kept any entry No. 386 dated 15.11.2009 and he has been implicated in the case malafidely; hence, he prayed the interim bail granted to said accused may be confirmed. He has further argued that applicant Ali Hyder Rajper being a private person was not the custodian of revenue record and had nothing to do with the alleged fake entries in record of rights; hence, he is also entitled to the grant of post-arrest bail on the ground of further enquiry. In support of his contentions, learned counsel has placed his reliance on the cases of *Fazal Ellahi and another vs. The State (2004 SCMR 235)*, *Saeed Ahmed vs. The State (1996 SCMR 1132)*, *Saeed Ahmed and another vs. The State (2014YLR 1190)* *Salman Irtiza vs. Ahmed Mian and another (2010 P.Cr.L.J. 672)*, *Mushtaq Ahmed Solangi and another vs. The State (2009 P.Cr.L.J. 732)* *Amanullah Shaikh & others vs. The State (SBLR 2006 Sindh 1508)*, *Iftekhhar-ul-Hasan vs. The State (2013 P.Cr.L.J. 1486)*.

6. Mr. Ali Nawaz Junejo, learned counsel appearing for applicant Mushtaq Ali in Criminal Bail Application No. S-77 of 2018, has maintained that the

applicant is neither the signatory of alleged solvency certificate nor he verified the same and the allegations leveled against him are of general nature and no reasonable grounds exists to believe that the he has committed the alleged offence.

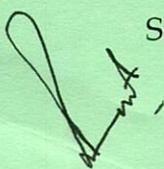
7. On the other hand, learned Addl. Prosecutor General has contended that applicants Ali Hyder Rajper is the beneficiary of the alleged solvency certificate, while other co-accused, except Ghulam Hyder and Mushtaq Ali, being public servants had issued fake and forge solvency certificate in favor of applicant Ali Hyder which he submitted in ATC Court, Sukkur as surety to get the accused involved in a crime released on bail, knowingly, that he (*Ali Hyder Rajper*) had already sold out his land to Tufail Ahmed in the year 1992, as such, their applications for grant of bail are liable to be dismissed, while the guilt of applicants Ghulam Hyder and Mushtaq Ali requires further enquiry.

8. I have considered the arguments advanced by the learned counsel for the applicants and Addl. P.G. as well as perused the material available on record.

9. It appears from the tentative assessment of the record available with the prosecution that the agricultural land admeasuring 7-1 acres, situated in S. No. 2, Deh Kalar, Taluka Ratodero on the bases of purchase stood mutated vide Entry No. 170, in the name of applicant/accused (*in Cr. Bail Application No. S-81 of 2018*) Ali Hyder Rajper in record of rights, subsequently, he sold out the said land in the year 1992 to Tufail Ali Jatoy in whose favour entry No. 149, dated 01.08.1992, was entered in record of rights, who later on 15.10.2009 stood surety in the Court of Sessions Judge, Larkana for accused Mst. Sughra by mortgaging the said land in favour of said Court, vide entry No.386. It was, thereafter, applicant/accused Ali Hyder Rajper got solvency certificate No. 81, dated 02.08.2014, in respect of said land and stood surety before the Court of ATC, Sukkur, in Crime No.195/2010 of P.S Ratodero, for accused Badardin, Imamuddin, Jameel Veesar. It further

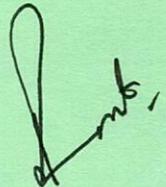
appears that the said solvency certificate was issued and verified by the applicants/accused (in Cr. Bail Application No. S-52 & S-55 of 2018) Niaz Ali Siyal, the then Mukhtiarkar, and Javed Ahmed, Tapedar, Taluka Ratodero in favour of applicant/accused Ali Hyder Rajper in collusion with each other, which the latter produced before the Court of ATC Sukkur. Thus, the applicant/accused Ali Hyder Rajper, *prime facie*, knowingly that he was no more owner of the agricultural land after selling the same to Tufail Ali Jatoi obtained the solvency certificate on his name with connivance of aforementioned officers of the revenue department and used the same as surety to get the accused persons of the case released on bail from the Court of ATC, Sukkur. He is; therefore, beneficiary of the alleged solvency certificate, While, the afore-mentioned applicants/accused, namely, Niaz Ali Siyal and Javed Ahmed being officials of revenue department knowingly that as per their record Ali Hyder Rajper is no more owner of the land, issued and verified the solvency certificate in his favour. Hence, *prime facie*, prosecution has sufficient evidence to connect the said accused persons with the commission of alleged persons.

10. So far the allegations against applicants/accused Mushtaq Ali Gopang and Ghulam Hyder Samejo is concerned, it appears that the former has been implicated in the case on the statement of co-accused Ali Hyder recorded under section 161 Cr.P.C., otherwise his signature admittedly does not appear in solvency certificate. While the latter was posted as Mukhtiarkar Ratodero in the year 2017 when the Court of ATC. Sukkur issued letters to him for the verification of the land in respect thereof the solvency certificate was issued and he furnished his reports on 31.03.2017 and 19.04.2017, verifying that surety Ali Hyder does not hold/possess any property in Taluka Ratodero and presently the land is uncultivated. Hence the case of above-named two applicants/accused falls within the ambit of further enquiry as envisaged under sub-section (2) of the Section 497 Cr.P.C.



11. For the forgoing facts and reasons, interim pre-arrest bail granted to applicants/accused Ghulam Hyder in Criminal Bail Application No. S-52 of 2018 and Mushtaq Ali Gopang in Criminal Bail Application No. S-77 of 2018 vide order dated 31.01.2018 and 09.02.2018, respectively, is confirmed on the same terms and conditions, while Cri. Bail Applications filed by applicants/accused Niaz Ali, Javed Ahmed Hakro and Ali Hyder Rajper bearing No. S-52, 55 and 81 of 2018 are rejected. Interim pre-arrest bail granted to applicants/accused Niaz Ali and Javed Ahmed Hakro stand recalled.

12. Above are the reasons of my short order dated 03.09.2018



JUDGE