

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

C.P No.D-1843 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case

24.09.2019

Mr. Nisar Ahmed Mallah, Advocate for petitioner.
Mr. Jangoo Khan, Special Prosecutor NAB.

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Petitioner is Ex-Mukhtiarkar Taluka Thano Bola Khan and is seeking post arrest bail in Reference No.14/20107 pending trial before Accountability Court Sindh at Hyderabad on the allegation that he in connivance with other official accused named therein and fake khatedars kept entries bearing No.129, 128, 116, 114, 113, 117 and 115 VF VII-B Deh Hathal Buth, increasing original area mentioned therein, issuing sale certificates and thereby allowing transactions on the government land.

2. Earlier to present petition, the petitioner had filed C.P No.D-406/2016, which was heard along with four other Constitutional Petitions for pre-arrest bail filed by co-accused and dismissed vide order dated 18.03.2019 on merits. Against which the petitioner and other accused approached the Honourable Supreme Court by filing Civil Petitions No.237-K, 266-K and 277-K of 2019, which too were dismissed on 08.05.2019. The Honourable Supreme Court has observed in Para-4 as under:

“A tentative assessment of the available record would show that a prima facie evidence in the shape of documentary evidence is available against the petitioners. Petitioner Muhammad Saffar Channa while posted as Mukhtiarkar, Thano Bola Khan in connivance with co-accused Abdul Jabbar Somro (absconder) Tapedar, Thano Bola Khan kept different fake entries showing fake areas on the basis of fake NOCs. Similarly Ghulam Hussain Umrani, Tapedar and Muhammad Soomar Kalhorro, Mukhtiarkar issued fake certificate dated 14.02.2007 with their mutual connivance in favour of their absconding accused Muhammad Usman Baloch inspite of presence of inspection memo dated 08.03.2005 of above referred inspection team wherein it was observed that entry No.175 dated 17.01.2005 and all other subsequent entries were fake and bogus.” ”

3. Learned counsel for the petitioner has argued that despite directions of this court contained in the order dated 18.03.2019, to expedite the trial only one witness has been examined; that there is insufficient material connecting the petitioner with the alleged offence; that the trial has not been completed yet; and

that the petitioner himself was Member of Inspection Team and has been falsely implicated in this case.

4. On the other hand, learned Special Prosecutor NAB has opposed grant of bail to the petitioner on the ground that already merits have been considered by this court and Honourable Supreme Court and no fresh ground has been agitated by the petitioner; that one witness has been examined and the trial is in progress, which for few dates was delayed because of absconsion of the co-accused but now their case has been separated.

5. We have considered submissions of the parties and have gone through the material available on record. Although the earlier petitions filed by the petitioner and co-accused were for pre-arrest bail but while deciding the same the merits of the case were considered tentatively as required. The Honourable Supreme Court also has made observation on merits as is reflected from Para No.4 of its order reproduced above. No fresh ground has been agitated by the petitioner in this petition except that there is insufficient material against the petitioner which as we have stated above has already been considered in the previous bail application of the petitioner. There is sufficient documentary evidence to connect the petitioner with the alleged offence. Further, the argument of learned Counsel for the petitioner that the petitioner had kept alleged entries on the basis of material produced before him by his subordinate staff requires deeper appreciation of evidence which can only be undertaken by the trial court after the entire evidence has come on record. The trial has already commenced and one witness has been examined.

6. In such facts and circumstances, the petitioner has not been able to make out a case for grant of post arrest bail. Consequently, this petition for post arrest bail is dismissed. However, the trial court is directed to expedite the trial and at the same time the prosecution is also directed to produce the witnesses without fail.

7. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party on merits.

JUDGE

JUDGE

