

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Present:-
Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Abdul Mobin Lakho.

Cr. B.A. No.2047 of 2021

Jason Ronlad
Versus
The State

Cr. B.A. No.2049 of 2021

Zulfiqar Ali Junejo
Versus
The State

Cr. B.A. No.2124 of 2021

Aisha Mirza
Versus
The State

Cr. B.A. No.2128 of 2021

Adeel Latif
Versus
The State

Cr. B.A. No.2355 of 2021

Farah Mansoor
Versus
The State

For date of hearing : 11.01.2022 & 13.01.2022

Date of order : 13.01.2022

Khawaja Naveed Ahmed, advocate for applicant in Cr. B.A.2124/2021 and 2355/2021.

Mr. Shamshad Ali Qureshi, advocate for applicant in Cr. B.A. 2128/2021.

Mr. Wasik Ahmed Kehar a/w Zamir Ahmed, advocate for applicant in Cr. B.A. No.2047/2021`.

Mr. Zamir Ahmed, advocate for applicant in Cr. No.2047/2021

Mr. Aamir Mansoob Qureshi, advocate for applicant in Cr. B.A. 2049/2021.

M/s Zain-ul-Abidin, Muhammad Mustafa Younus and Syed Hair Hassan, advocate for Bank

Mr. Ali Haider Saleem, Addl. P.G. a/w Insp. Imtiaz Ali P.S. Shahrache-e-Faisal.

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. As per brief facts, 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 Rs.550,000,000/- to different customers, some of whom dummy, against fake / artificial gold

deposited with the Bank. Such information was communicated to the head office, and resultantly the senior officials of the bank visited the branch and checked the bags 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 counsel for applicants have argued that they are innocent and have been falsely implicated in this case; the regular police have no jurisdiction to register FIR and take up investigation in the cases of offences against the banks; that no evidence has been found showing nexus of the applicants with the alleged offence; that there are no reasonable grounds to believe that applicants have committed the alleged offence; that similarly placed accused have been let off by the police and the offence does not fall within the prohibitory clause u/s 497 Cr. P.C. In support of their contentions, they have relied upon the case laws reported in **2009 MLD 37 Karachi, 2021 P Cr. LJ 1300 Lahore, PLD 2014 SC 760, 2020 P Cr. LJ note 4, 1996 MLD 1460 Lahore, 2017 YLR Note 408 Sindh, 2004 YLR 254, 2009 SCMR 181, 2010 P Cr. LJ 948, 2020 P Cr. LJ Note 64, PLD 2021 SC 799, PLD 2017 SC 733, 2021 YLR 328, PLD 2021 173, 2021 YLR 843 and 2021 YLR Note-61**

4. On the other hand, learned DAG, Addl: P.G. Sindh and counsel for the Bank have opposed bail to the applicants stating that *prima facie*, material collected against them, show their nexus with the alleged offence and they with connivance of each other have fraudulently caused a loss of Rs.550,000,000/- to the bank.

5. We have considered submissions of the parties and perused material available on record including the case law relied upon in defence. It is a well settled proposition of law that while deciding a bail application only a tentative assessment of the material brought on record has to be made. The question of jurisdiction raised in defence having a different connotation than release of an accused on bail cannot be taken up and decided in the application like the one in hand. Even otherwise, the trial court has taken cognizance of the offence against the applicants, where they can move an application challenging the jurisdiction, etc.

6. The evidence, containing voluminous documents including copies of pay orders, CCTV footages and the bank record, discussed herein below, has been collected and *prima facie* connect the applicants in the alleged offence. Applicant Zulfiqar Ali Junejo being Operation Manager was responsible for oversight / supervision in regard to every transaction being carried out in his branch. It was during his incumbency, it is alleged, the amounts for loan were disbursed against artificial jewelry/gold. The copies of pay orders to gold finance borrowers without biometrics and to third parties duly signed by him have been collected. He is also alleged to have signed customer verification documents but at the time of videography of transactions chose to remain absent, contrary to established procedure.

7. Applicant Adeel Lateef, Gold Finance Executive, was working at the given branch although he was not formally posted there. He was found involved in all transactions having processed the loan finance cases of the customers, who included dummy customers, in collusion with the bank officials/co-accused. Applicant, Farah Mansoor was the Manager/Bank. It is alleged that she replaced the original gold of genuine customers with fake gold and jewelry, which was recovered from her along with bank's security bags. It is also alleged, she would disburse the cash in her office evading videography protocols for recording transactions.

8. Applicant Aisha Mirza is alleged to be the mastermind of the crime who would arrange customers and deposit artificial/fake gold ornaments. She would visit the branch everyday without an apparent reason, which, as pointed out by the learned counsel for the bank, is evident from the CCTV camera footages. Further, she would also arrange dummy customers and with the help of co-accused/bank officials succeeded in obtaining gold finance loans, which amount actually they all distributed among themselves. She was also found to have purchased several properties, gold jewelry and cars from the crime proceeds. On her pointation, huge cash and gold ornaments have been recovered during investigation. It has also been found that she transferred the money to her brother through hundi with the help of co-accused Jason Ronald, whose laptop computer has been recovered and sent to forensic lab at Lahore for examination, but report of which is still awaited. Such role of applicant Jason Ronald has been identified in the investigation and the trial court has agreed with the same while taking cognizance of the offence against him. His counsel has argued

that there is no evidence in this regard without realizing that hundi transactions are not documented. In any case, report of his laptop sent to forensic lab for examination is still awaited, and he seems to be involved.

9. All the aforesaid pieces of evidence *prima facie* connect the applicants with the alleged offence. We have been informed that final challan in this case has been filed lately and even the charge has not been framed. We are of the view that since there is *prima facie* sufficient documentary evidence against the applicants and the trial is primed to commence within a short while, it would be in the interest of justice to let the prosecution examine few material witnesses before the case of applicant for bail is considered afresh in the light of such material. Therefore, we while dismissing the listed applications direct the trial court to frame the charge, proceed with the trial expeditiously and examine material witnesses within a period of three months. Thereafter, applicants would be at liberty to move fresh bail applications, which if filed, will be decided on its own merits.

10. 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

Rafiq/P.A.