

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No. 199 of 2021**

Date	Order with signature of Judge
1. For orders on office objection as at "A". 2. For hearing of Bail Application.  Dated of hearing: 08 <sup>th</sup> March, 2021  Mr. Abdul Nabi Joyo, Advocate for applicant/accused Ms. Seema Zaidi, D.P.G, Sindh. Mr. Shahid Khan, Spl. Prosecutor, PRP Karachi a/w Tanveer Anjum SI/SHO of Railways Police Landhi, Karachi.	-----  <b><u>Kausar Sultana Hussain, J:-</u></b> Through instant Bail Application, applicant/accused Muhammad Saleem seeks his release on post arrest bail in case Crime No. 02 of 2018, registered at PS Railway Police, Landhi Karachi under Section 6-9/C, read with Section 14/15 of the CNS Act, 1997. The bail plea raised by him before the learned trial Court, which was turned down vide order dated 06.07.2018. The challan of the case has been submitted by the police and the same is now pending for trial before the Court of learned II <sup>nd</sup> Special Judge, (C.N.S) at Karachi (The State versus Mst. Fozia Akbar and others).  2. I have heard arguments of both the sides and perused the material available on record. From the perusal of record, it reveals that prior to filing of this bail application, the applicant/accused and co-accused Mumtaz Azam, Fozia Akber and Mst. Saba Parveen have filed their bail applications before this Court and time and again the learned trial Court was directed to dispose of the matter but the learned trial Court could not conclude the matter within stipulated time, hence the applicant/accused has filed the present bail application.  3. From the perusal of record, it also reveals that the applicant/accused is behind the bar since the day of his arrest i.e. 18.03.2018. The trial court could not conclude the case within two, three

and four months despite clear directions of this Court dated 27.9.2018, 15.7.2019 and 06.04.2020 in earlier Bail Applications No. 1229 of 2018, 614 of 2019 and 119 of 2020. I reached at the irresistible conclusion that the applicant/accused has succeeded to establish the grant of bail on statutory delay in trial and in our country liberty of individual has been guaranteed by the Constitution beside the fact that speedy trial is inviolable right of every accused person, therefore, even if the provision of section 497 Cr.P.C in ordinary course is not applicable, the broader principle of the same can be pressed into service in hardship cases to provide relief to a deserving accused person incarcerated in jail for a shockingly long period. An accused person cannot be left at the mercy of the prosecution to rotten in jail for an indefinite period. The delay in the conclusion of trial of detained prisoners cannot be lightly ignored provided it was not caused due to any act or omission of accused. In the instant case prosecution during the period of more than three and half years hardly succeeded to examine one prosecution witness and there remain thirteen prosecution witnesses those are yet to be examined by the prosecution and certainly it shall take sufficient time.

4. Before parting, it needs not to make clarification that the observations recorded above are tentative in nature and will not prejudice the case of either party.

5. These are the reasons of my short order dated 08.03.2021.

J U D G E

*Faheem/PA*