

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

Crl. Bail Application No.S-323 of 2018.
Crl. Bail Application No.S-327 of 2018.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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27.08.2018

Mr. Asif Ali Abdul Razak Soomro, advocate for applicant
Khuda Bux in Crl. Bail Application No.S-323 of 2018.

Mr. Qurban Ali Malano, advocate for applicant Agha
Shahryar Ahmed Khan in Crl. Bail Application No.S-327 of
2018.


Mr. Khadim Hussain Khooharo, Addl. P. G.

ZAFAR AHMED RAJPUT, J--

By this common order, I intend to
dispose of above mentioned both the Crl. Bail Applications as the same
being arisen out of same Crime/F.I.R. have been heard together.

2. The applicants through listed applications seek post-arrest
bail in Crime No.11 of 2011, registered at Police Station ACE,
Jacobabad under section 409, 467, 468, 471, 120-B, PPC R/w Section
5(2) Act-II of 1947. Their earlier application for grant of bail bearing
No.13 of 2018 was heard and dismissed by the learned Court of Special
Judge, Anti-Corruption, (Prov.), Larkana, vide order dated 23.06.2018.

3. Briefly stated the facts of the case are that in the result of
an enquiry conducted on the complaint of chowkidars of Food
Department, Distract Jacobabad by the Assistant District Food
Controller, Karachi vide report, dated 20.01:2007 and after obtaining



approval from competent authority, Safdar Ali Junejo, Circle Officer, Anti-Corruption Establishment, Jacobabad, on 20.07.2011, lodged afore-mentioned F.I.R. on behalf of the State, alleging therein that the accused Anees-ur-Rehman Mahar, the then DFC, Jacobabad, in collusion with Tariq Abro, Clerk DFC Office, Jacobabad, Shahal Khan Arbani, the then Head Clerk, DFC Office, Jacobabad, Qaisar Ali Hashmi, the then District Accounts Officer, Jacobabad, Ghulam Sarwar Pathan, the then District Accounts Officer Jacobabad, Hidayat Bux alias Babar Pathan, Superintendent DFC Office, Jacobabad and Mohammad Usman, Auditor District Accounts Office, Jacobabad misappropriated following Government amount in various Heads by way of fraud and forgery by managing false record and withdrawal against the funds during period from July 2005 to November 2006.

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| 1. Bills falsely drawn from District Accounts Officer Jacobabad before 31.08.2006 | Rs. 32,39,636/- |
| 2. Amount falsely drawn after 31.08.2006 directly from Bank through cheques in October 2006. | Rs. 2,72,000/- |
| 3. Bills falsely drawn from District Accounts Office Jacobabad in November 2006. | Rs. 8,98,864/- |
| Total Rs. 44,10,500/- | |

It is also alleged that the above Government amount was misappropriated by Anees-ur-Rehman, the then, DFC, Jacobabad and others and thereby they caused huge loss to Government and, as such, they committed the offence of corruption, fraud and forgery.

4. Mr. Asif Ali Abdul Razak Soomro, learned counsel appearing for applicant Khuda Bux Soomro, has contended that the applicant is an Ex-C.D In-charge HBL, Jacobabad and he has falsely been implicated in this case; that the alleged misappropriation pertains to the years 2005 and 2006 and the name of the applicant neither appears in inquiry report nor even in the F.I.R. which was registered in

the year 2011 in consequence of inquiry report, dated 20.01.2007, while the challan was submitted on 16.05.2018 which itself reflects that the matter was investigated after lodging of F.I.R. by Anti-Corruption Officer for 11 years but nothing was secured as proof against the applicant to connect him ^{with} the commission of the alleged crime, however, the name of the applicants was mentioned as an accused in the challan by the Circle Officer, ACE by placing the names of nominated accused in Column No.2 with blue ink, hence, it is a fit case of further enquiry.

5. Mr. Qurban Ali Malano, learned counsel appearing for applicant Agha Shahryar Ahmed Khan, while adopting the arguments of Mr. Soomro, has further added that the applicant is Ex-Operational Manager of HBL Quaid-e-Awam Branch Jacobabad and he has nothing to do with the alleged offence which has been attributed in the F.I.R. to officials of Food Department and District Accounts Office, Jacobabad; that the alleged fraud, forgery and preparation of false record took place in the office of District Food Controller (FDC) Jacobabad in the year 2005-06 and the alleged cheques were signed by the District Food Controller Anecs-ur-Rehman having D.D.O powers but surprisingly he has been let off by the Circle Officer, ACE in Challan; that even the Challan submitted by the I.O after almost seven years of lodging of the FIR does not speak of any role of the applicants for the commission of alleged offences.

6. On the other hand, learned Addl. P. G has opposed the grant of bail to applicants on the ground that they are involved in the misappropriation of an amount of Rs.44,10,500/-.

7. Heard the learned counsel for the applicants, Addl. P. G has well as perused the material available on record.

8. It is also an admitted position that the F.I.R. was registered on 20.07.2011, with delay of 5/6 years, and the challan has been submitted on 16.05.2018 after about six years and ten months of lodging of the F.I.R. It has specifically been alleged in the F.I.R. that Anees-ur-Rehman, the then District Food Controller in collusion with other nominated accused misappropriated the said amount in various Heads by way of fraud and forgery by managing false record and withdrawal against the funds during the said period. However, after the investigation, the nominated accused, namely, Anees-ur-Rehman, Hidayat Bux alias Babar Pathan, Qaiser Ali Hashmi and Shahal Khan Arbani have not been sent up for trial and their names have been placed by the I.O in the second column of the Challan, as the Director, Anti-Corruption Establishment Sindh, Karachi dropped the allegations against the said nominated accused. It also appears that the present applicants are not nominated in the F.I.R. and they have been implicated in the Challan without assigning/referring specific evidence, if so collected, during investigation against them; hence, it is a fit case of further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. I, therefore, admit both the applicants to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.100,000/- each and P.R bond in the like amount to the satisfaction of the learned trial Court.

Both the criminal bail applications stand disposed of in above terms.


Judge

M.Y.Panhwar/**