

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. B.A. No.S-115 of 2017.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

21.06.2017.

Mr. Ahsan Gul Dahri, Advocate for the applicant.

Mr. Fazal Hussain Jamali, Assistant Attorney General of Pakistan
alongwith Inspector Muneer Ahmed Shaikh FIA, Hyderabad.

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Through instant bail application, applicant seeks post-arrest bail in Crime No.02/2017, registered at PS: FIA Crime Circle, Hyderabad, under sections 161 PPC r/w section 5(2) Act-II of 1947.

2. Precisely, relevant facts are that applicant, while serving as Line Superintendent in HESCO, received Rs.10,000/- as illegal gratification and he was trapped by the authorities alongwith Magistrate.

3. Counsel for applicant contends that alleged offence does not fall within prohibitory clause; maximum sentence is 07 years; at present trial Court has only framed charge and trial of the case will take time. He contends that the applicant is ready to work on any post / assignment offered by the authority where such opportunities are rare He refers **2016 PCr.LJ 1151**.

4. In contra, learned Assistant Attorney General contends that offence is against society; being grade-16 officer applicant has received Rs.10,000/- as illegal gratification, therefore, he is not entitled for bail.

5. Admittedly, maximum sentence as provided for the alleged offence is 07 years, hence offence does not fall within prohibitory clause. The applicant / accused is in *judicial* custody hence is not required for any purpose of investigation. The prosecution has also not claimed any apprehension of evidence being tampered if the applicant is released on **bail**. Though, allegedly applicant / accused is guilty of an offence falling within meaning of Section 5-II of the Act but allegation against him of receiving Rs.10,000/- *only* which, being denied, required to be proved through trial. Per counsel, till date

only charge is framed against the accused hence *trial* will surely take some time. In the case of **Tariq Bashir v. State** (PLD 1995 Supreme Court 34), it is settled that in cases not falling within prohibitory clause grant of bail is right and its refusal is an exception. Learned Assistant Attorney General is unable to demonstrate extra-ordinary circumstances for rejection of bail. Thus, there appears no reasonable justification for keeping the applicant (accused for an offence not falling within prohibitory clause) behind the bars for an indefinite period who *otherwise* will receive his due at the end of the day. Accordingly, applicant is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and P.R. Bond in the like amount to the satisfaction of the trial Court. It is *however* added that during pendency of case the authorities would avoid giving any such posting to applicant / accused which could be exploited for illegal gains. Copy of this order also be sent to HESCO authorities.

Bail application stands disposed of.

JUDGE

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