

THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 829 of 2020

[Allah Muhammad v. The State]

Applicant/ Accused : Allah Muhammad s/o Khuda Noor
through Muhammad Naseeruddin,
Advocate.

The State : Through M/s. Sadaqat Khan Awan
Special Prosecutor SSGC & Ms Rubina
Qadir, Deputy Prosecutor General
Sindh.

Date of hearing : 22-07-2020

Date of order : 22-07-2020

FIR No.51/2019
P.S. SSGC, Karachi
U/S: 15/17/24 GTC&R Act, 2016

ORDER

Adnan Iqbal Chaudhry J. - The Applicant/Accused was arrested under the Gas (Theft, Control & Recovery) Act, 2016 on a raid of a restaurant found to be using an unauthorized gas connection, of which restaurant the Applicant claimed to be owner. The Applicant's first bail application before this Court was dismissed on the merits on 11-12-2019. His second bail application to this Court was disposed of by order dated 12-03-2020 by requiring the trial court to proceed expeditiously and to conclude the trial preferably within 4 months. This is now the third bail application before this Court.

2. Learned counsel for the Applicant submits that despite the order of this Court to conclude the trial within 4 months, the trial has yet to commence as the authorities could not produce the Applicant before the trial court from jail due to impediments created by the corona virus pandemic. That fact is also borne out from the report dated 21-07-2020 received from the trial court. Learned counsel also relies on the case of *Shamraiz Khan v. The State* (2000 SCMR 157) to seek bail on the ground that subsequently the Applicant has paid to the SSGC the amount of the gas theft alleged in the challan. Per learned counsel, the said events constitute fresh grounds for considering bail.

3. By way of assistance to the Court, the learned Special Prosecutor SSGC submitted that the case of *Shamraiz Khan* does suggest that payment by the accused of the alleged loss can be considered as a fresh ground for bail. On the other hand, the learned DPG submitted that given the provisions of the Gas (Theft, Control and Recovery) Act, 2016, payment of the alleged loss could at best be taken towards civil liability under the Act.

4. Heard. Regards the ground that the trial has not concluded within the period specified by this Court, it has been held by the Supreme Court of Pakistan in *Nisar Ahmed v. The State* (PLD 2016 SC 11) and *Tallat Ishaq v. National Accountability Bureau* (PLD 2019 SC 112) that a direction by a superior Court to the trial court to conclude a trial within a specified period is an administrative direction, and non-compliance thereof for whatever reason does not *ipso facto* entitle an accused person to be admitted to bail. As regards the subsequent payment by the Applicant of the amount of the gas theft alleged, that, in my view, cannot be considered as a fresh ground for bail by itself when bail has already been denied on the merits of the case. The case of *Shamraiz Khan* does not help the Applicant as it does not lay down the proposition that payment of the stolen amount by the accused can be taken as a ground in itself to grant bail independent of the merits of the case.

5. For the foregoing reasons, none of the grounds urged constitute fresh grounds for bail. There appears to remain less than 2 months before the Applicant can again move for bail on the ground of statutory delay under the third proviso to section 497(1) Cr.P.C. With this observation, the application is dismissed. In the meanwhile, it is expected that the trial court will exercise powers to compel the production of the Applicant from jail so that the trial concludes expeditiously.

JUDGE