

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Cr.B.A.No.1994 of 2019

Before:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Irshad Ali Shah

Syed Muhammad Shafi Ahmed Petitioner
Versus
The State Respondent

Date of Hearing: 11.02.2020

Date of Decision: 11.02.2020

Mr. Yahya Iqbal, advocate for the applicant.
Mr. Muhammad Ahmed Assistant Attorney General.

ORDER

IRSHAD ALI SHAH, J:- It is alleged that the applicant opened a fake account with title of M/s B.M.R.Marketing Services Karachi, with Muslim Commercial Bank Gulistan-e-Jauhar Branch Karachi and deposited therein two IBCAs/Advices, on different dates total for Fifty Lacs Rupees purportedly to have been issued from Muslim Commercial Bank Gari Khata, Branch Hyderabad and then withdrawn such amount for his personal gain, in active connivance of rest of the culprits for that the present case was registered accordingly.

2. The applicant on having been refused post arrest bail by learned Presiding Officer Special Court (Offences in Banks) Sindh at Karachi has sought of the same from this Court by way of instant application under section 497 Cr.P.C.

3. It is contended by the learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police; co-accused Syed Khawar Ahmed and Kamran Saleem Haqi with similar role have already been acquitted by learned trial Court;

the applicant is having a better case to the that of said co-accused, therefore, he is entitled to be released on bail on point of further enquiry. In support of his contention he has relied upon case of ***Tariq Pervez Vs. The State (1995 SCMR 1345)***.

4. Learned Assistant Attorney General has opposed to grant of bail to the applicant by contending that he is main beneficiary of the alleged fraud; his case is different to that of acquitted co-accused who have already been acquitted and the applicant after committing the alleged incident has remained in absconsion for noticeable period, which is spreading over fifteen years.

5. We have considered the above arguments and perused the record.

6. The name of the applicant is appearing in FIR with specific allegation that he withdrew Fifteen Lacs Rupees from the Muslim Commercial Bank Gulistan-e-Jauhar Branch Karachi, on the basis of fake IBCAs/Advices and then used the same for his personal gain thereby put him within the category of main beneficiary of the alleged cheating/fraud. In that situation, it would be premature to make a conclusion that the applicant is innocent and has been involved in this case falsely by the police. After committing the alleged incident the applicant has preferred to go in absconsion for noticeable period, spreading over fifteen years, which has not been accounted for by the applicant plausibly, same as such could not be overlooked. It is true that co-accused Syed Khawar Ahmed and Kamran Saleem Haqi have already been acquitted by the learned trial

Court but there could be made no denial to the fact that they were having a different case. They indeed were not beneficiary of the alleged fraud/cheating. There appears reasonable ground to believe that the applicant is guilty of the offence with which he is charged.

7. The case law which is relied upon by the learned counsel for the applicant is on different facts and circumstances. In that case on appeal the accused was acquitted by the Honourable Apex Court by extending him benefit of doubt. In the instant case, no question of acquittal of the applicant is involved.

8. In view of the facts and reasons discussed above, it could be concluded safely that no case for grant of bail to the applicant is made out. Consequently, the instant bail application is dismissed with direction to the learned trial Court to expedite disposal of the very case within three months after receipt of this order.

9. Needless to state that the observation made above are tentative in nature and same may not effect the case of either of party at trial.

JUDGE

JUDGE