

**IN THE HIGH COURT OF SINDH, KARACHI**

Cr. Bail Application No. 377 of 2022

Applicant : Gibran Oliver s/o. Dominic Bhatti, through  
Mr. Ashfaque Ahmed, advocate

Respondent : The State, through Mr. Chaudhry Waseem  
Akhtar, Assistant Attorney General, along  
with S.I. Saba Jaffery, F.I.A. A.H.T.C.,  
Karachi

Date of hearing : 19.04.2022

Date of order : 19.04.2022

**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Having been rejected his earlier bail application bearing No. 07 of 2022 by the learned Special Judge (Central)-II, Karachi, vide order dated 14.02.2022, applicant/accused Gibran Oliver s/o. Dominic Bhatti, through instant bail application, seeks post-arrest bail in Crime No. 14 of 2022, registered under section 5(2) PCA, 1948 read with sections 420, 468, 471, 109, P.P.C. and section 3(2), 13, 14 Foreigners Act, 1946 at P.S. F.I.A. A.H.T.C., Karachi.

**2.** It is alleged that co-accused Naimatullah illegally and fraudulently obtained a CNIC showing his father's name as Abdul Rahim by intruding himself in the family of complainant Ahmed Jan s/o Abdul Rahim with the abatement of the applicant, who processed the CNIC of the said co-accused on 22.07.2013, while posted as Incharge NRC Karachi, West; and thereby the applicant committed criminal misconduct, for that he was booked in aforesaid F.I.R.

**3.** Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case with mala fide intention and ulterior motives; that the applicant followed Standard Operating Procedure (SOP) in processing the form of co-accused Naimatullah for issuance of CNIC; that at the time of processing of CNIC form, co-accused Naimatullah produced his Birth Certificate, old

manual NIC of his parents; that the CNIC form was properly and duly attested by the attester as per NADRA Ordinance, 2000; that the attester is responsible for authenticity of the particulars of the co-accused; that few tools are available with NADRA officials in shape of RTS (Registration Tracking System) and NIS (National Identification System), which are usually provided to the Incharge of NRC and for utilizing the said tools a separate ID was given to Incharge of NRC for verification purpose but no separate ID & password was provided to the applicant in order to use the tool of RTS & NIS; that for checking and verification of manual record i.e. RG-III, the DAVIS app is available in NADRA system and separate ID and password is required to use the DAVIS app but no separate ID & password was provided to the applicant to use DAVIS app in order to check any manual NIC record; that for checking/verification of old MNIC record (RG-III) DAVIS application is available in NADRA system to counter check the provided manual NIC number of any applicant but F.I.R. as well as interim Charge Sheet is silent with regard to the ID and password of DAVIS application through which the applicant is held responsible to neglect to check/verify the status of old manual NIC; that nothing is mentioned in the F.I.R. as well as interim Charge Sheet with regard to violation of any rule of existing SOP by applicant and the manner through which he violated the same; that the whole case of the prosecution is based on documentary evidence, which is in the custody of the F.I.A. officials; as such, there is no chance of tempering with the evidence by the applicant; that the applicant is confined in judicial custody since his day of arrest and the F.I.A. has submitted interim challan; hence, his custody is no more required for further investigation; that the trial of the case is likely to take some time and the applicant cannot be kept behind bars for an indefinite period; hence, he is entitled to the concession of bail.

**4.** On the hand, learned Assistant Attorney General opposes this application on the ground that, on 22.07.2013, the applicant processed the CNIC of co-accused Naimatullah, who was a non-national, in violation of NADRA's registration Policy 1.1.5, which was in field; that specific role has been assigned to the applicant in commission of the alleged offence; hence, he is not entitled to concession of bail.

**5.** Heard learned counsel for the parties and perused the material available on record.

**6.** It appears from the perusal of the record that at the relevant time the present applicant was posted as Deputy Assistant Director NADRA, RHO, Sindh Karachi, the office from where the co-accused Naimatullah obtained his CNIC. The charges under section 420, 468 & 471, P.P.C. and section 3 (2), 13 & 14 of the Foreigners Act, 1946 have been leveled specifically against the co-accused Naimatullah, while charges against the present applicant are under section 109, P.P.C. and 5(2) of the PCA-II, 1947, which being punishable with imprisonment up to seven years do not fall within the prohibitory clause of section 497, Cr.P.C. It is yet to be determined at the trial if the applicant simply committed negligence in course of his official duty while approving documents of the said co-accused for issuance of CNIC or he did so for his personal wrongful gain amounting to criminal misconduct, as defined under section 5 of the PCA-II, 1947. Case of the applicant in circumstances is needed further inquiry as contemplated by sub-section (2) of the Section 497, Cr.P.C.

**7.** It further appears that the applicant is confined in judicial custody since 21.01.2022. F.I.A. has submitted the interim challan wherein the said co-accused has not been sent up for trial. The trial Court has yet not taken the cognizance as the investigation is still

incomplete and the same could not be proceeded without arrest of said co-accused, who is still at large, or submitting of challan against him by the F.I.A. under section 512, Cr.P.C. The applicant is not likely to temper with the prosecution evidence. No useful purpose would be served if the applicant is kept behind the bars for indefinite period and as a rule bail is not to be withheld as a punishment.

**8.** Accordingly, instant application is allowed, and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 2,00,000/- (*Rupees Two Lacs only*) and PR bond in the like amount to the satisfaction of the trial Court.

**9.** Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

JUDGE

*Athar Zai*