

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Cr. Bail. Appln. No.S- 532 of 2020

For hearing of bail application

(notice issued through fax)

Applicant: Aijaz Ali Halepoto through M/s Qurban Ali Malano, Mehfooz Ahmed Awan and Farhan Ali Shaikh Advocates

Respondent: The State through Mr. Shafi Muhammad Mahar, DPG for the State

Date of hearing: 19.10.2020

Date of short order: 19.10.2020

ORDER

Aftab Ahmed Gorar, J:- Through instant Criminal Bail Application, the applicant/accused Aijaz Ali S/o Abdul Hakeem Halepoto, seeks post-arrest bail in Crime No.02 of 2020 of Police Station, Anti-Corruption Establishment Sukkur for offences punishable under Sections 161, 466, 468, 471, 34 PPC R/w Section 5(2) Act-II of 1947.

2. Precisely stated the facts of the case are that complainant Maqsood Ahmed Soomro lodged the FIR on behalf of State at Police Station, Anti-Corruption Establishment, Sukkur, are that the present applicant/accused being Mukhtiarkar (Revenue) countersigned the entry No.91 dated 17.12.2002 kept by co-accused Mumtaz Ali Kalwar, Tapedar of Deh Old Sukkur Taluka New Sukkur, on the basis of managed entry No.54 of Survey No.586 (4-00) Acres in form VII-B,

while mutating the foti khata of late Ghulam Rasool in the name of legal-heirs of i.e. accused Noor Ahmed Noonari, Ghulam Muhammad Noonari and others, as such caused transfer of Estate Land fraudulently and managed bogus revenue record, as such the accused persons in connivance with each other have caused huge loss to the Government exchequer, hence the FIR was lodged.

3. The applicant/accused on having been refused post-arrest bail by the Court of learned Special Judge, Anti-Corruption (Provincial) Sukkur vide dated 15.09.2020, has preferred the this bail application.

4. It is contended by learned counsel for the applicant/accused that applicant being innocent has been involved in this case falsely by the Anti-Corruption police; that there is delay of Eighteen (18) years in lodgment of the FIR, for which no plausible explanation has been furnished by the complainant, hence false implication of the applicant/accused cannot be ruled-out; that prior to this enquiry was conducted in Complaint No.55/2009 of the same offence and after enquiry, the enquiry Officer came to conclusion that no offence has been committed, hence such report was filed which was approved by the competent authority, whereas, the complainant with malafide intentions has suppressed the above fact regarding earlier enquiry; that the co-accused Noor Ahmed has been granted bail, whereas, the case of present applicant/accused is rather on better footings, hence

he also deserves the same concessions; that the mere allegation of countersigning the entry has been leveled against the present applicant/accused; that the applicant/accused is neither previous convict nor hardened or desperate criminal; that the complainant / Investigating Officer did not call the present applicant/accused during enquiry which is in violation of mandatory provisions of Rules. It is lastly contended by learned counsel for the applicant/accused that the case has been challaned and the applicant is no more required for further inquiry.

5. Learned DPG for the State has opposed for grant of bail to the applicant by contending that he has countersigned the entry kept by co-accused Tapedar Mumtaz Ali Kalwar without verification, therefore, he is fully involved in the commission of the offence because the State land has been transferred, hence a huge loss has been caused to the Government Exchequer due to act of the applicant/accused, therefore, he is not entitled for grant of bail.

6. I have heard the learned counsel for the applicant/accused and learned DPG for the State and perused the record. Admittedly, there is delay of about 18 (eighteen) years in lodgment of the FIR, for which no plausible explanation has been furnished by the complainant. The allegation against the applicant/accused is that he has only countersigned the entry No.91 kept in the revenue record

on 17.12.2002 by co-accused Mumtaz Ali Tapedar, thereby changed the *foti khata* of deceased Ghulam Rasool in favour of his legal-heirs in respect of S.No.586 (4-00) Acres in Form VII-B, whereas, the said entry was later-on cancelled on 25.12.2002. Furthermore, a like nature Complaint No.55/2009 on the same subject-matter was filed and after enquiry, the same was closed vide Order dated 15.07.2010 by the competent authority. Learned counsel for the applicant placed on record copy of enquiry report dated 15.06.2010 furnished by Circle Officer, Anti-Corruption Establishment, Sukkur as well as Order of Deputy Director, Anti-Corruption Establishment Sukkur. There is no possibility of tampering with the prosecution evidence, as the entire material available with the prosecution is documentary in nature. The alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C. The case has been challaned and the applicant/accused is in custody since the date of his arrest, hence he is no more required for further investigation and his further incarceration in jail would serve no purpose. In these circumstances, the learned counsel for the applicant/accused has rightly contended that the applicant/accused is entitled to grant of bail on point of further enquiry.

7. In view of above, vide short order dated 19.10.2020, the instant bail application was allowed and the applicant was admitted to post-arrest bail subject to his furnishing solvent surety in sum of

Rs.100000/- (One hundred thousand) and PR bond in the like amount to the satisfaction of learned trial Court. These are the reasons in support thereof. The observations made herein above are tentative in nature and will prejudice the case of either party at trial.

Judge

ARBROHI