

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Cr. Bail Appln No.528 of 2020

Date	Order with signature of Judge
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For hearing of bail application  
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20.05.2020

Khawaja Naveed Ahmed, Advocate along with applicant  
Chaudhry Waseem Akhtar, Assistant Attorney General  
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**AFTAB AHMED GORAR,J:** Through this bail application applicant Muhammad Arif son of Abdul Khaliq has assailed the legality and propriety of order dated 07.04.2020 passed by the learned Special Judge (Central-II), Karachi on Criminal Bail Application filed under Crime No.528 of 2019 registered at Police Station FIA AHT Circle, Karachi for offences punishable under Sections 17(1) of E.O 1979 read with Section 419/109 PPC, whereby after hearing the parties, the learned Special Judge dismissed the bail plea of the applicant.

2. Learned Counsel for the applicant submitted that the applicant is innocent and has falsely been implicated in this case. He further contended that the applicant proceeded abroad on valid travel documents of Pakistani passport as his ancestors had migrated to Pakistan during Afghan War. He also contended that the applicant had left Pakistan on 24.11.2011 on valid legal documents on Visa of Indonesia hence offence, if any, committed by the applicant is in violation of Indonesian Immigration Law and not the land law of Pakistan. Learned Counsel also contended that the alleged offence is punishable with five years' imprisonment only hence does not attract prohibitory clause of 497 Cr. P.C. He submitted that the applicant is in custody for last about four months hence unless some proper evidence

comes against him, he may be released on bail for which the applicant is ready to furnish a solvent surety.

3. Learned Assistant Attorney General has opposed the bail and submitted that the applicant has fraudulently used the Pakistani passport with mala fide intentions hence has tried to malign the citizenship as well as the integrity of our beloved country before the international community as such he does not deserve any leniency. He also contended that the Counsel for the applicant is avoiding to appear before the trial Court to conclude the trial despite directions given in this regard in the earlier bail application of applicant and instead again approached this Court for bail. He added that had the applicant been innocent he could have proceeded with the case before the trial Court on each and every date to show his fairness. Learned Assistant Attorney General therefore, prayed that the bail application of the applicant may be dismissed.

4. I have heard the learned Counsel for the applicant, learned Assistant Attorney General and perused the record available before me.

5. It is the matter of record that initially applicant made his departure from Pakistan for Indonesia on Pakistani Passport No.CG1981171 thereafter met his Agent namely Akbar who managed to send him Australia where he shown himself as displaced Afghani National in war-torn and sought asylum by declaring himself Afghani. Subsequently after obtaining the travel documents/Alien's passport he obtained a family visit visa from Pakistan Embassy at Canberra, Australia and arrived at Pakistan where the Immigration authorities obtained IBMS against CNIC/Pakistani passport number of applicant which showed his departure from Pakistan on Pakistani Passport and it was further revealed that the applicant has fraudulently obtained Australian Travel Documents hence he was booked in the instant offence. The offences so committed by the applicant is a heinous one

than the general offences committed by accused persons in the territory against society as the act of applicant prima facie maligned the motherland and green passport which is not tolerable unless the applicant proves his innocence during trial.

6. Further that earlier the applicant had also filed a bail application bearing Cr. Bail Application No.90/2020 which was dismissed vide order dated 19.2.2020 with directions to the trial Court to conclude the trial within a period of one month under compliance report to this Court. However after filing instant bail application when the report was called from the trial Court, which is available on record clearly demonstrates that the defence side always opted to delay the matter despite hectic efforts of the trial Court to conclude the trial in compliance of the aforesaid order passed by this Court . The relevant paragraphs of report of trial Court dated 25.4.2020 are mentioned herein below.

- “1. That on 26.02.2020, accused was produced in custody while the PWs FIA Inspector Afshan Bibi and Mazhar Hussain were in attendance but the defence counsel was called absent. The accused filed application for adjournment, therefore, the case was adjourned to 11.03.2020 for recording of evidence.
2. On 11.03.2020, Miss Riffet Kausar advocate associate of Mr. Aroon Parsad advocate filed vakalatnama on behalf of the accused. On the same date, this Court recorded examination-in-chief of the PW-2 Afshan Bibi and PW-3 Mazhar Hussain. Cross examination of PWs has been reserved as adjournment application was filed by the defence counsel and case was adjourned to 16.03.2020.
3. On 16.03.2020 all the PWs were in attendance but learned defence counsel failed to conduct cross examination and filed adjournment application. The case was adjourned on the application of defence counsel to 18.03.2020.
4. Since 18.03.2020, the accused is not being produced by jail authorities due to prevailing pandemic of COVID-19 and lockdown announced by the Sindh Govt. on 23.03.2020. The defence counsel also remained absent without any intimation. PWs required to be cross examined were in attendance, therefore, matter is adjourned to 24.03.2020.”

6. The paragraphs reproduced above reflects that the defence Counsel has deliberately been taking adjournments on one or the other pretext and avoiding to proceed with the matter despite the fact that the earlier bail application NO.90/2020 moved on behalf of the applicant was not pressed by him subject to giving directions for early disposal of the matter.

7. Since the examination-in-chief of main witnesses namely PW Afshan Bibi and PW Mazhar Hussain were recorded and it is pending for their cross examination which is admittedly being delayed by the defence Counsel hence the applicant does not deserve any leniency as the defence himself seems uninterested to wind up the case against applicant in trial.

8. In view of above discussion, this criminal bail application is hereby dismissed.

JUDGE