

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln No.1021 to 1026 of 2021.

Date: Order with signature(s) of the Judge(s)

For Hearing of Bail Appln.

01st July, 2021.

M/s. Amer Raza Naqvi and Afaq Ahmed advocates for the applicants in all Cr. Bail Applications.

Mr. Nadeem Ahmed Khan, Assistant Attorney General a/w Aijaz Ali Kalwar, Assistant Director Legal FIA Cybercrime and Kailash Baboo, Investigation Officer/Assistant Director, FIA Cybercrime.

Salahuddin Panhwar, J:-It has come on record that FIA has one forensic lab at Karachi and one at Islamabad, whereas, forensic lab is yet to be established at Karachi University as was ordered by the of Hon'ble Apex Court and this court. Needless to add that the name of "**FIA**" always includes crimes, known as **white-colour crimes** as well **cyber crimes** which, if not *entirely* dependent upon *forensics sciences* least require add / assistance thereof. Worth mentioning here that role of *forensics sciences* has become more *vital* because of availability of *latest* and modern facilities for *criminals*. However, availability of two *forensic lab (s)* only for whole country is nothing but a shock rather a *misery* for investigation agencies. It leaves a big question that without forensic evidence and expertise how murder, rape; other crimes, including cybercrime cases, can be investigated *properly*. It has also come on record in other cases that there is no forensic education by any university or college except being offered by the NED University.

2. For **crimes** and **criminals**, the absence of such like facility with **investigation agencies**, was / is worth celebrating which, *however*, shall always be at the cost of **society**. Thus, it is, *high-time*, for federal and provincial governments to ensure functioning of well-equipped forensic lab(s) so that no *criminal* could get an escape because of absence of timely forensic expertise.

3. Accordingly, Federal and Provincial governments are required to establish forensic lab in every district enabling all the investigation officers to investigate properly all the crime relating to human body as well as the cybercrime. Needless to add that since it is the need of the *time* therefore, the Federal and Provincial Government (s) are expected to appreciate the need of such *lab (s)* which, *hopefully*, shall follow the required step (s) because to ensure every facility for curbing the **crimes** was / is the absolute responsibility of none but the **State**. Needless to ad that failure towards such responsibility may compel this Court to intervene.

4. Applicants are in prison for last six months and case is yet to be probed. FIA would be competent to probe the issue and investigation cannot be stopped at any stage but this *alone* can't be an excuse to keep on behind the bars for indefinite period without their being *strong* evidence of his being guilty of the offence. Worth adding that if substantial evidence, at any time surfaces, justifying committing of the accused to custody, the FIR or any other Investigating Agency, can competently move for cancellation of bail. Needless to add that repeating of similar nature of the offence has been considered as an *abuse* to concession of bail. Reference is made to the case of Muhammad Faiz v. State 2015 SCMR 655 wherein it is held as:-

"6. ...We may observe that right of an accused to the concession of bail in a cognizable offence is not absolute. It is the discretion which a Court exercises by transferring the custody of an accused from Jail to the Court, which discretion is normally withheld **if the accused abuses the concession by repeating the offence after the grant of bail.** The criminal cases against the petitioner prior to the case in hand, *prima facie*, attracts the aforesaid established norms.

Therefore, in such *eventuality* the FIA would be competent to approach this court and as well as trial court against such *abuse*, if so committed. It is settled principle of law that bail cannot be withheld as punishment, hence, applicants are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.1,00,000/- [rupees one lac only] each with PR bond in the like amount to the satisfaction of trial court. Office is directed to place copy of this order in all connected Cr. Bail Applications.

JUDGE