ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1408 of 2018
Crl. Bail Application No. 1528 of 2018

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Date   Order with signature of Judge

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<u>For hearing of bail application</u>

<u>14.12.2018</u>

      Mr. Sohail Muzaffar, Advocate for applicant.
      Mr. Muhammad Aslam Bhutta, Assistant Attorney General a/w SIP Shaikh Sohail Mehmood, FIA, I.O. of the case.
      Mirza Tanveer Ahmed, Assistant Director, FIA.

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      Rao Kaleem Anjum (through Criminal Bail App. No. 1408 of 2018) and Arif Masih (through Criminal Bail App. No. 1528 of 2018) have sought post arrest bail in crime number 248 of 2018 registered under sections 221, 225-A and 34 P.P.C. read with section 5(2) of the Prevention of Corruption Act, 1947.

      Brief facts of the case are that there were 108 passengers who boarded an Oman Air flight from Muscat to Karachi on 2-9-2018 but when the manifest for the flight was checked by the F.I.A. staff on duty at the airport in Karachi, record of only 107 passengers was found. On 4-9-2018 it was discovered that details of one passenger, namely Rana Shahid Afzal, who was a Pakistani national and who had come on that Oman Air flight was missing from the manifest. Rana Shahid Afzal's name was ostensibly on the Exit Control List. CCTV footage was examined and it was seen that the said passenger was standing in the middle of the immigration hall with applicant Rao Kaleem (head mohrar of the F.I.A.) and applicant Arif Masih (a sweeper at the airport). The passenger was seen entering the F.I.A. office situated in the Immigration lounge. The aforementioned F.I.R. was lodged against the applicants based on what was seen in the CCTV footage.

      I have heard the learned counsel for the applicants as well as the learned counsel for the F.I.A. who was assisted by the investigating officer of the case. My observations are as follows.

      The learned counsel for the F.I.A. confirmed that the only evidence available against the applicants is that of the CCTV footage. He further gave a broad argument

that the applicants assisted a passenger wanted for a heinous offence to bypass the immigration checks. No material was put on record to show that the passenger was involved in any offence or that he was indeed on the ECL. It was also not explained as to how a person who was on the ECL will be affected by that status if he was coming into Pakistan. The record of what is shown in the CCTV footage as stated by the F.I.A. itself does not appear to conclusively show that the applicants have taken out the said passenger from the airport. Of course a definite conclusion in this regard can only be made after evidence is led at trial. If the passenger coming in was indeed a criminal wanted for heinous offences, it is a cause of great concern for this country that the F.I.A. procedure at the airport is so lax that a head mohrar and a sweeper has such authority that they can single handedly facilitate the disembarkation of a criminal and the agency does not find out as to what happened till after 3 days of the incident. If indeed the circumstances in which the passenger has left the airport are correct a high level inquiry should have been conducted by the F.I.A. to determine who all in the department were liable for the lapse. Another piece of evidence that the F.I.A. has relied upon in its case against Arif Masih is his ostensible "confession" under section 164 Cr.P.C. A bare reading of the said confession does not reveal that the said applicant ever confessed to the crime.

Investigation in the case is complete, the challan has been submitted, all evidence is in the hands of F.I.A. and the applicants are not required for further investigation. Upon a tentative assessment, it appears that the case against the applicants is one of further enquiry.

Above are the reasons for the short orders dated 5-11-2018 and 6-12-2018 in terms of which the applicants were admitted to post arrest bail subject to their furnishing solvent sureties in the amount of Rs. 50,000 each and P.R. Bonds in the like amount to the satisfaction of the Nazir of this court.

JUDGE