

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-657 & 984 of 2020

DATE ORDER WITH SIGNATURE OF JUDGE

12.09.2022

M/s Shaikh Jawaid Mir and Mallag Assa Dashti advocates for applicants along with applicants on ad-interim pre-arrest bail.

Mr. Shahzado Saleem Nahiyoon, APG along with Jawad Rajput, Assistant Director, ACE Jamshoro / I.O of the case.

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MUHAMMAD IQBAL KALHORO, J.- Sindh Government in order to establish Bhambore Dairy Village at Thatta released Rs.1000 Million to a project launched for this purpose supervised by Laeeq Ahmed Memon, Secretary, Live & Stock, Fisheries Department, and after him one Zafar Iqbal. Total cost of the project was Rs.2800 Million. It is alleged that Rs.360,000,000/- were paid to the contractors by official accused which include mobilization cost as well as work on site. This project involved different government officials working in the aforesaid department, the contractors and consultants. It is stated that against payment released to the contractors, the government has Rs.268.239 Million as security deposited in the relevant banks by the contractors.

2. When, subsequently, the work was not found satisfactory, an inquiry was initiated. It was found that the relevant officials without observing due diligence and obtaining the legal advice from the office of Advocate General Sindh had made the payments in connivance with field staff of the project to the contractors. And, in order to justify the same, allegedly false documents were prepared. When the investigation was handed over to Anti-Corruption Establishment, after registration of FIR, Zafar Iqbal, one of the Secretaries involved, was exonerated and not sent up for trial on the ground that he had made payment of Rs.151 Million only in compliance of the directions of this Court in petitions filed by the contractors for payments. However, the government went to

Honourable Supreme Court and succeeded in overturning such direction and hence the cheques through which such payment was attempted to be made were stopped. It is stated that those three cheques are still lying with the Nazir of this court at Karachi. The difference, in payment and work on site worth Rs.171 Million is found at Rs.181 Million. However, it has been admitted that out of difference of Rs.181 Million, Rs.151 Million, through three cheques, lying with the Nazir of this Court, which Zafar Iqbal had issued under the directions of this court and not encashed, are secured. Now, the difference, as admitted by the IO is only of Rs.31 Million. The project has been abandoned and no work is going on since.

3. Apart from above, when the case of Syed Zahid Ali Shah, the Engineer and immediate senior of applicant Khalid Zafar Shaikh, and contractors Maqbool Ahmed Soomro and Ahmed Pathan was taken up by the Honourable Supreme Court in Criminal Petitions No.985, 1003 & 1019 of 2019 in presence of IO, he, in view of submission of the Challan, made a statement that their custody was not required which led learned defense counsel not to press the petitions with a liberty to appear before the trial court, directed to expedite the trial and conclude it as early as possible.

4. Citing all these facts and circumstances, learned defense counsel have pleaded for bail, which learned Additional Prosecutor General Sindh has opposed. The IO has apprised the court of all the facts and circumstances as above.

5. From the above discussion, it is apparent that nly loss to the government, estimated as of now, is approx. Rs.31 Million only against which the security of Rs.268.239 Million deposited by the contractors is lying with the government which the Secretary concerned can make a move for encashment. From the statement of the IO here, it can be gathered that he has collected all the papers and currently the applicants are no more required for any investigation and there is no need to take them in custody for this purpose. It is almost the same situation which was before the Honourable Supreme Court when it was pleased to allow

concession to the accused to appear before the trial court without even any surety to ensure the same.

6. Considering above all these facts, I am of the view that any treatment different than already meted out to co-accused, with more or less similar allegations, cannot be conceived of in the case of applicants. Consequently, these applications are allowed and the applicants ad-interim pre-arrest bail granted vide orders dated 14.07.2020 and 09.10.2020 hereby confirmed on the same terms and conditions.

7. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE