

IN THE HIGH COURT OF SINDH, KARACHI

C.P.No.D-5267 of 2022

Date

Order with signature of Judge

Present

Mr. Justice Aqeel Ahmed Abbasi

Justice Mrs. Kausar Sultana Hussain

Priority

1. For hearing of Misc. No.22519/2022

2. For hearing of main case.

15-09-2022

Mr. Ahmed Ali Hussain, Advocate for the
Petitioner.

Mr. Khaleeq Ahmed, DAG along with Qazi
Ayazuddin, Asstt. Attorney General.

O R D E R

Pursuant to Court notice, Mr. Khalid Mehmood Rajpar, Advocate has shown appearance along with Mudasir Ali, I.O. Custom House, Karachi, files Vakalatnama on behalf of the respondents and requests for time to file reply/comments to instant Constitutional Petition. It is, however, contended by the learned counsel for the respondents that inspite of Court's directions to the Petitioner to join the investigation, the petitioner is not coming forward for such purpose, nor has shown appearance before the learned trial Court. Such contention of the learned counsel for the respondents, is denied by the learned counsel for the petitioner, who has contended that the petitioner visited the Custom House twice where he was made to wait for hours, however, his statement was not recorded.

Learned counsel for the petitioner submits that the petitioner is willing to join the investigation and to surrender before the learned trial Court, provided some protection may

be provided to the petitioner, and respondents may be directed not to create harassment or to implicate the petitioner in false cases. It has been further contended that instant petition may be disposed of in terms of orders passed by this Court in similar petitions, including an order dated 10.11.2020 passed by a Divisional Bench of this Court in C.P.No.D-4912 of 2020 (*Sohail Habib Baghat vs. Federation of Pakistan and others*) along with other connected petitions. In support of his contention, learned counsel for the petitioner has referred to the relevant paragraph of the order which is reproduced as under:-

“Since the F.I.Rs have already been registered, whereas, the same have been challenged in all these petition except in C.P.No.D-6451/2019 for being without jurisdiction, besides being malafide as per petitioners, therefore, the petitioners, who directly approached this Court without surrendering before the trial Court, are directed to join investigation, cooperate with prosecution and to surrender themselves before the trial Court and shall furnish surety in the sum of Rs.100,000/- (Rupees one hundred thousand only) each before trial Court within seven days from the date of this order, whereafter, they shall be regulated by the trial Court in accordance with law, however, no harassment shall be caused to the petitioners by the Customs Authorities. Petitioners will be at liberty to file appropriate proceedings/application(s) before the learned trial Court for seeking appropriate relief in respect of the criminal proceedings, including quashment of F.I.R(s) under Section 265-K Cr.P.C. in accordance with law.”

(Copy of order is Annexed at pages 335-337)

Learned counsel for the respondents and the learned DAG do not oppose disposal of instant petition while directing the petitioner to join investigation and surrender before the learned trial Court, however, submit that facts of the instant petition are distinguishable from the facts of the aforesaid petitions.

Accordingly, without prejudice to the right and instance of petitioner and the Custom Authorities, which may be agitated before the learned trial Court, by consent, instant petition is disposed of along with pending applications in terms of the above mentioned order passed by Divisional Bench of this Court on 10.11.2020, however, with directions to the petitioner to join the investigation, and to surrender before the trial Court and to furnish surety in the sum of Rs.200,000/- (Rupees Two Lacs Only) within seven days from the date of this order, and to attend the trial Court regularly subject to furnishing surety in the above terms, respondents are directed not to cause harassment and to arrest the petitioner in the instant case. It is expected that the trial and adjudication proceedings, if any, may be concluded at an early date in accordance with law. Petitioner is also directed to appear before I.O. on 19.09.2022, Custom House, Karachi, at 11.00 a.m.

Judge

Judge

