

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-247 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.  
For hearing of main case.  
15.05.2023

Mr. Mushesh Kumar Khatri, advocate for the applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

**Amjad Ali Sahito, J:-** Through instant bail application, the applicant/accused namely, Muhammad Azeem Arain seeks post-arrest bail in Crime No.02/2022, registered at Police Station ACE, Dadu for the offence under sections 409, 406, 418, 420, 34 PPC read with section 5 (2) of the Prevention of Corruption Act-II, 1947. Earlier the bail plea of the applicant/accused was declined by the learned Special Judge, Anti-Corruption (Provincial) Hyderabad vide order dated 15.03.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant has mainly contended that though the applicant/accused is innocent and has falsely been implicated in this case but he has filed instant bail application on statutory ground of delay in the trial. He has contended that the applicant/accused was arrested on 09.07.2020; however, he was shown absconder but on 27.05.2022, production order of the applicant/accused was issued by the learned trial Court in the instant case. He has further contended that the applicant/accused is behind the bars since 34 months; however, yet the trial has not been concluded, as such, he is entitled to be enlarged on bail merely on the statutory ground of delay in conclusion of the trial as such delay has not occurred on the part of applicant/accused.

4. On the other hand, learned A.P.G. Sindh has opposed the grant of bail to the applicant/accused.

5. Heard and perused the record.

6. This application is filed for grant of bail on the statutory ground that the trial has not been concluded within the stipulated period notwithstanding the applicant/accused is behind the bars since 09.07.2020

since then no progress has been made before the learned trial Court. On the last date of hearing, progress report was called from the learned trial Court, in which it is disclosed by the learned trial Court that on 27.05.2022, Circle Officer, ACE, Dadu submitted interim challan against the applicant/accused showing him absconder; however, subsequently, Investigating Officer submitted report that he is confined in Central Prison, Sukkur, hence, his production order was issued on 09.03.2023. After completion of investigation, the challan was submitted; however, yet charge has not been framed. It appears that the applicant/accused was arrested on 09.07.2020 since then he is in jail and no progress has been made by the learned trial Court despite the delay in conclusion of the trial is not on the part of applicant/accused. It is statutory right of every accused to be released on bail if the trial is not concluded within the stipulated period as nothing will bear freedom and liberty of a person, who is kept in incarceration for indefinite period, if he is acquitted of the charge after long run. Further, inordinate delay in imparting justice is likely to cause erosion of public confidence in the judicial system on the one hand and on the other, it was bound to create a sense of helplessness, despair and feelings of frustration apart from adding to the woes of the public. The prosecution case will not be improved if the applicant/accused is kept behind the bars.

7. In view of the above facts and circumstances, the applicant/accused is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.50,000.00 (Rupees fifty thousand only) and PR bond in the like amount to the satisfaction of learned trial Court.

8. It is made clear that if the applicant after getting bail will not appear before the trial Court and the trial Court is satisfied that the applicant becomes absconder and fugitive to law, then the trial Court is fully competent to take every action against the applicant/accused and his surety including cancellation of bail without referring to this Court.

JUDGE