IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1100 of 2023
Criminal Bail Application No.1300 of 2023

Applicant in B.A. No.1100/2023	:	Muhammad Farooq S/o Abdul Waheed Through Mr. Shaukat Hayat, Advocate a/w Mr. Saqlain, Advocate
Applicant B.A. No.1300/2023	:	Azhar Zaheer S/o Zaheer Qureshi Through Mr. Talha Makhdoom, Advocate
Respondent	:	The State Through Mr. Siraj Ali Khan, Addl. Prosecutor General, Sindh a/w Mr.
	:	Shahzad Fazul Abbasi, Director, ACE Sindh and M/s. Naseer Ahmed Shaikh & Javed Iqbal Shaikh, Technical Officers, ACE and I.O. Sarfaraz Ali Shah
Date of hearing	:	15.08.2023
Date of order	:	15.08.2023

O R D E R

AMJAD ALI SAHITO, J -- Through a single order, I intend to dispose of both the bail applications in which applicants/accused seek post-arrest bail in Crime No.01/2023 registered under Sections 161, 420, 409, 467, 468, 471, 34 PPC R/w Section 5(2) Act-II of 1947 at PS ACE South, after their bail plea has been declined by the Special Judge, Anti Corruption (Provincial), Karachi vide order dated 19.04.2023 & 10.06.2023.

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

3. Learned counsel for the applicants/accused submit that the applicants are innocent and have falsely been implicated in this case; that the allegation leveled against the applicants

is false as the applicants awarded contract of the work as per SPPRA rules and no violation has been committed by them; that that applicants have embezzled an amount of Rs.480,805/- but I.O. has failed to disclose the liability of each accused; that the applicants have been arrested in the month of January and are no more required for further investigation; that charge has not been framed yet. He lastly prays for grant of post-arrest bail.

4. On the other hand, learned Addl. P.G. and Technical Officer ACE oppose for grant of bail.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. Admittedly, the contract was awarded as per SPPRA rules and as per prosecution case, the work has been done at the site more than Rs.44,13,364/- out of Rs.48,94,169/-, as such, they have caused loss of Rs.480,805/-; however, the claim of the applicants is that after verifying the work at the site, they have been issued completion certificate. Further, I.O. has also not fixed the liability of each accused in the present case. However, it is yet to be determined whether any embezzlement has been committed by the applicants or the contract was awarded as per rules at the time of trial when evidence will be recorded. Since the applicants are in jail for last more than 7 months and is no more required for further investigation and their detention in the jail will not improve the case of the prosecution. Reliance is place in an unreported case of the Hon'ble Supreme Court of Pakistan in the case of **Jahzeb Khan vs. The State through A.G. KPK and others** in Criminal Petition No.594/2020; wherein the Hon'ble Supreme Court has held that:

> **"4..... Petitioner's continuous detention is not likely to improve upon investigative process, already concluded, thus, he cannot be held behind the bars as a strategy for punishment. A case for petitioner's release on bail stands made out."**

7. In view of the above and taking guideline from the cited case, learned counsel for the applicant has made out a case for grant of post-arrest bail in view of subsection 2 of Section 497 Cr.P.C. Accordingly, the instant bail applications are allowed. Applicants/accused named above are granted post-arrest bail subject to their furnishing solvent surety in the sum of Rs.100,000/- (Rupees one lac only) **each** and PR bond in the like amount to the satisfaction of the learned trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants/accused on merits.

JUDGE

Kamran/PA