

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Misc. Application No.197 of 2017

Date: Order with signature(s) of Judge(s)

For hearing of cases

23.02.2018

Ms. Ayesha Ali Rizvi, advocate for applicant
Ms. Abida Parveen Channar, Special Prosecutor A.N.F.

Through instant criminal miscellaneous application, applicant Ali Akbar son of Mansoor Hussain has called in question order dated 17.10.2017, passed by learned Judge, Special Court-II (CNS), Karachi, whereby application for return of passport during pendency of case for offence under sections 6/9(b) of the Control of Narcotic Substances Act, 1997, the same has been dismissed.

2. It transpires that the applicant was granted bail by the trial court vide order dated 13.06.2017. Operative part of the order is reproduced as under:-

“In view of above reasons, I grant bail to the accused Ali Akbar, subject to his furnishing solvent surety in the sum of Rs.100,000/- (one lac rupees) and P.R. bond in the like amount to the satisfaction of this Court.”

3. Counsel for applicant mainly contended that applicant/accused is a businessman and he requires his passport. It is also contended that family of the applicant/accused resides at Ukraine. Lastly contended that no condition has been imposed while granting bail to accused.

4. Special Prosecutor A.N.F. raised objection that applicant/accused may abscond and delay may be caused in the disposal of the case.

5. We have carefully heard the learned counsel for the parties and perused the relevant record. Every citizen has a right of freedom of movement as provided under Article 15 of the Constitution of Islamic Republic of Pakistan, 1973 which reads as under:

“15. **Freedom of movement, etc.** Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.”

6. We are inclined to allow the instant criminal miscellaneous application for return of Passport No.RG-1339521 to the applicant/accused for the reasons

that at the time of grant of bail to the accused, no such condition was imposed upon him by the trial court. It has also been admitted by Special Prosecutor A.N.F. that applicant/accused after grant of bail appears before the trial court on every date of hearing. However, it is apprehended by the Special Prosecutor A.N.F. that applicant/accused may abscond away. Applicant is allowed to travel abroad for one month from the date of departure under intimation to the trial court. Trial court shall return Passport No.RG-1339521 to the applicant/accused, subject to furnishing surety of Rs.100,000/- (Rupees One Hundred Thousand) before the trial court. Applicant/accused shall deposit his passport upon his return from Ukraine before trial court. Trial court shall conclude the trial within two months under intimation to this Court. It is informed by the counsel for the parties that Special Case bearing No.425/2017 is pending before Special Court-I (CNS) Karachi and Presiding Officer of the said Court Mr. Anwar Azam Baloch is lying ill and he is on leave on medical grounds. In order to avoid further delay, Special Case No.425/2017 is transferred to Special Court-II (CNS) Karachi for expeditious disposal in accordance with law.

Instant Criminal Miscellaneous Application stands disposed of.

JUDGE

JUDGE

Gulsher/PS