

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.302 of 2018

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

1. For orders on M.A. No.1847/2018 (U/A)
 2. For orders on M.A. No.1848/2018 (Exp/A)
 3. For hearing of bail application
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26.02.2018

M/s. Shaukat Hayyat and Shahab Sarki, advocates along with
applicant/accused Shoaib Ahmad Shaikh

Criminal Acquittals Appeals Nos.390/2016 and 60/2017 filed by State
against accused Shoaib Ahmed Shaikh, Muhammad Junaid and
Muhammad Younus have been allowed by us (Naimatullah Phulpoto and
Shamsuddin Abbasi, JJ.) today morning by short order, which is reproduced
as under:-

“Heard Additional Attorney General for Pakistan for appellant/State and
Mr. Shaukat Hayyat for respondents/accused. For the reasons to be
recorded later on, Criminal Acquittal Appeals Nos. 390 of 2016 and 60 of
2017 are allowed. Acquittal order passed by the trial court in favour of
respondent Shaikh Shoa ib Ahmed on application under Section 265-K,
Cr.PC vide order 24.08.2016 and order dated 22.11.2017 passed by trial
court in favour of respondents Muhammad Juanid and Muhammad
Younus on application under section 249-A, Cr.PC are set aside. The case
shall be deemed to be pending before the trial court. Trial court shall frame
charge against the accused on **03.03.2018** and conduct trial against the
accused in accordance with law and decide the case within three months.”

Thereafter, Criminal Bail Application No.302 of 2018 is filed by
applicant Shoaib Ahmed Shaikh in case/FIR No.51/2015, registered at FIA
CBC, Karachi under sections 5, 8, 22, and 23 of the FER Act, 1947 read with
sections 109/34, PPC for protective bail.

Mr. Shaukat Hayyat, learned advocate for applicant/accused, mainly
contended that after announcement of the short order in appeals, FIA
intends to arrest the applicant/accused with ulterior motive for humiliation.
When learned counsel for applicant/accused is questioned about the
principle of *functus officio*, he submits that aforesaid appeals were decided
by Division Bench, whereas, Criminal Bail Application No.302/2018 is filed
by the applicant/accused before Single Bench.

After hearing the learned counsel for the applicant/accused Shoaib Ahmad Shaikh, I am of the considered view that principle of *functus officio* is applicable to this case. I have passed short order in above referred appeals with my brother Shamsuddin Abbasi, J. This Court ceased to have jurisdiction and has become *functus officio* in the matter. Therefore, protective bail application is dismissed on this ground.

JUDGE

Gulsher/PS