

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

**Criminal Bail Application No. S-302 of 2018**

Applicant: Mansoor Ahmed Soomro s/o. Khair Muhammad Soomro, through M/s. Ali Azhar Tunio and Asif Ali Abdul Razak Soomro, advocates.

Respondent: The State, through Mr. Sarafdin Kanhar, Assistant P.G.  
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**Criminal Bail Application No. S-303 of 2018**

Applicant: Zahid Hussain s/o. Muhammad Lashkari, through Mr. Ahmed Bux Abro, advocate.

Respondent: The State, through Mr. Sarafdin Kanhar, Assistant P.G.  
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Date of hearing: 06.08.2017

Date of order: 06.08.2017  
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ORDER

Zafar Ahmed Rajput, J:- By this common order, I intend to dispose of both above listed bail applications, as both the applicants/accused seek post-arrest bail in same Crime/F.I.R. bearing No. GO-02 of 2018, registered at P.S. ACE, Shikarpur under Section 161, 409, 467, 468, 477-A, 34 P.P.C. read with Section 5(2) of the Prevention of Corruption Act, 1947.

2. It is alleged that in the wake of raid conducted on officer/officials of Municipal Committee, Shikarpur and with the permission of Competent Authority and as per order No.DD/ACE/R/2888-89, dated 02.05.2018, of Deputy Director, ACE, Shikarpur, Inspector Abdul Wahab Buriro, Circle Officer, ACE, Shikarpur, on 03.05.2018, lodged aforementioned F.I.R. on behalf of the State at Police Station ACE, Shikarpur, which is reproduced herein under:-

*"Brief facts are that accused Baber alias Sunny Sanjrani, Chairman Municipal Corporation, Shikarpur during his chairmanship period appointed Muslim on daily wages as sweepers and he made payment to them under head of salaries. Besides this, said Chairman Baber @ Sunny Sanjrani prepared illegal and bogus bills of his own petrol pump, namely, Sunny filling Station Shikarpur and made corruption under the head of petrol, 2. Accused Mansoor Ahmed Soomro, C.M.O. Shikarpur during his posting made payment to various contractors under*

the head of different contracts/works and did not maintain record of said payments.

3. Accused Javed Anwar Abbasi, Taxation Officer, MC Shikarpur during his posting made corruption in Taxation Branch of Municipal Committee Shikarpur made corruption in different contracts for which no record was maintained. 4. Accused Naveed Khan Kolachi, Accounts Officer, MC Shikarpur during his posting in collusion with Chief Municipal Officer and Chairman made payment of Rs.80,00,000/= by making payment illegally. 5. Accused Iftikhar Hussain Dayo, Accounts Officer, MC Shikarpur during his posting in collusion with C.M.O. Mansoor Ahmed Soomro, made corruption and he did not maintain cash book. 6. Accused Mahfooz Ahmed Soomro, Municipal Engineer, MC Shikarpur during his posting countersigned several MBs illegally prepared by Javed Ahmed Bhayo, Municipal Engineer. 7. Accused Ghulam Hyder Memon, Sub-Engineer, M.C Shikarpur during his posting signed various MBs and got the bills passed from Audit Branch and then payments were made. 8. Accused Javed Ahmed Bhayo, Municipal Engineer, M.C Shikarpur during his posting signed various MBs without checking the work and passed bogus bills. 9. Accused Akhtar Hussain Abro, Assistant Director Local Fund Audit, Shikarpur during his posting passed bills without exhausting legal requirements. 10. Accused Pervaiz Ahmed Solangi, Assistant Director, Local Fund Audit, Shikarpur during his posting got the bills audited without exhausting legal requirements. 11. Accused Saeed Jan Pathan, Incharge Electric Store Branch MC Shikarpur during his posting purchased the electric items without quotation. 12. Accused Zahid Hussain Bhutto, Incharge Fire Master MC Shikarpur during his posting made corruption in the bills of petrol and diesel and he did not maintain the log books of the fire brigade vehicles. Above named accused in connivance with each other have cleared bogus bills by causing loss to the government in millions and misappropriated the government funds and caused huge loss to the government."

3. M/s. Ali Azhar Tunio and Asif Ali Abdul Razak Soomro, the learned counsel for the applicant/accused Mansoor Ahmed have mainly contended that the applicant/accused has falsely been implicated in the case along with other officials of Municipal Corporation, Shikarpur; that there are general allegations against the applicant and no details of corruption or misappropriation of the amount allegedly paid to contractors illegally by the applicant/accused has been given in the F.I.R. or even in the challan; that the applicant did not make payment to any contractor individually and all the payments were made through committee constituted by the Chief Secretary, Govt. of Sindh after being cleared by the audit officer and the cheques were signed by the Chairman and CMO jointly, therefore, the applicant

cannot be held liable for such payments exclusively or independently; that the police has collected entire record during investigation hence, there is not likelihood of tempering with the evidence of prosecution; that the alleged offence, except offences under section 409 and 467 P.P.C., do not fall within the prohibitory clause of section 497 Cr.P.C. and in such like cases grant of bail is a rule and rejection is an exception, while sections 409 and 467 P.P.C. have been misapplied by the prosecution; that the applicant are behind the bars since 04.05.2018 and the police has submitted the challan against him; hence, the applicant/accused are entitled for the concession of bail. In support of their contentions, the learned counsel have placed their reliance on the cases of *Fazal Ellahi and another vs. The State* (2004 SCMR 235), *Saeed Ahmed vs. The State* (1995 SCMR 1132) *Muhammad Salim and 6 another vs. Muhammad Zubair and 3 others* (1995 SCMR 171), *Hussain Haqani vs. The State* (2000 P. Cr. L.J 161) and *Muhammad Ismail vs. The State* (2004 P.Cr.L.J. 1758).

4. Mr. Ahmed Bux Abro, learned counsel for the applicant/accused Zahid Hussain has adopted the arguments of learned counsel for the applicant Mansoor Ahmed

5. On the other hand, learned A.P.G. while opposing this applications has maintained that the applicants have been nominated in the F.I.R; that as per F.I.R. the applicant/ accused Mansoor Ahmed Soomro served as C.M.O. Shikarpur and he during his posting made payment to various contractors under the head of different contracts/works but did not maintain record of said payments, while applicant/ accused Zahid Hussain Bhutto served as Incharge Fire Master MC, Shikarpur and he during his posting made corruption in the bills of petrol and diesel and he did not maintain the log books of the fire brigade vehicles; that the applicants/accused are involved in an offence of causing huge loss to government exchequer; therefore, they are not entitled for the concession of bail.

6. I have considered the arguments advanced by the learned counsel for the applicants/accused and learned Assistant Prosecutor General as well as perused the material available on record.

7. The allegation against the applicant/accused Mansoor Ahmed Soomro, as per F.I.R., is that he during his posting as CMO, Municipal Committee, Shikarpur made payment to various contractors under the head of different contracts/works but he did not maintain record of said payments, while allegation against applicant/accused Zahid Hussain is that he while serving as Incharge Fire Master MC, Shikarpur made corruption in the bills of petrol and diesel and he did not maintain the log books of the fire brigade vehicles. Tentative assessment of available record does not disclose the quantum of loss allegedly caused to Government Exchequer by the said applicants/accused. It is also an admitted position that the contractors, who were beneficiaries of alleged payments on fake and bogus bills, have not been made accused in the case. Both the applicants/accused are confined in judicial custody since their date of arrest i.e. 04.05.2018. After completing investigation, police has submitted the challan against the applicants/accused; hence, they are no more required by the police for further investigation. The witnesses cited in the challan are either police officials or employees of Municipal Corporation, Shikarpur; more over case against the accused entirely depends upon documentary evidence which prosecution has already secured; therefore, there is no possibility of tampering with the same. So far the applicability of sections 409 and 467 P.P.C. is concerned, it is yet to be determined if the applicants/accused were entrusted with any amount and if they forged any document for the purpose of cheating; hence, it is a fit case of further enquiry.

8. For the forgoing facts and reasons, both the applicants/accused are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.5,00,000/- (Rupees Five Lacs) each and P.R. Bond in the like amount to the satisfaction of the Addl. Registrar of this Court,

9. Needless to mention here that if applicants in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel their bail after issuing them the requisite notice.

JUDGE