

Form No: HCJD/C-121.
ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 01-B of 2023

Naseem Anjum
Versus
The State & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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09.01.2023. Raja Rizwan Abbasi, Advocate for the petitioner.
Mr. Usman Warraich, AAG.
Mr. Tabish Javed, Asfand Yar and Mustansar Mushtaq, FIA.

The petitioner Naseem Anjum son of Muhammad Shafi Anjum has sought bail after arrest in relation to charges brought against him under Section 4 of Anti-Money Laundering Act, 2010 ("**Act**") pursuant to F.I.R 20/2021, dated 18.11.2021, at Police Station FIA/Corporate Crime Circle, Islamabad.

2. The learned counsel for the petitioner submitted that the petitioner had already been granted bail in relation to FIR No. 19/2021 by the order of this Court dated 12.12.2022 in "**Naseem Anjum vs. The State & another**" (Crl. Mis No.1519-B of 2022), which constituted the predicate offence for purposes of the FIR in question. He submitted that where an accused had

been granted bail in relation to the main offence, on the ground it is the case of further inquiry, he was also entitled to bail in relation to the predicate offence. He relied on **"Muhammad Alam vs. The State" (2018 P Cr. L J 837)** for the proposition. He also relied on **"Muhammad Usman vs. The State" (2016 P Cr. L J 54)** where the learned Peshawar High Court had granted bail to the accused on the basis that as the prosecution was yet to establish that the accused had received proceeds of crime his case under Section 4 of the Act was one of further inquiry. He submitted that FIR No.19/2021 in which the petitioner had been granted bail was registered on 17.11.2021 and the instant FIR No.20/2021 was registered on 18.11.2021. And it was not conceivable for a prudent mind that the State could have investigated charges under FIR No. 19/2021 within a period of less than 24 hours and come to the conclusion that the petitioner was in receipt of proceeds of crime and liable for an offence under Section 4 of the Act. He submitted that while the occurrence related to year 2015-2016 and the petitioner had been behind bars since 17.11.2021, affecting the arrest of the

petitioner in the instant case on 31.05.2022 reflected malafide on part of the investigation agency, which was meant to frustrate the petitioner's right to be granted bail on statutory grounds. He submitted that no challan had been submitted in the instant case and consequently there was no likelihood of the trial being concluded within the statutory period and the petitioner was therefore entitled to bail.

3. The learned Assistant Attorney General stated that Section 4 of the Act attracted a punishment up to 10 years and fell within the prohibitory clause. He submitted that the punishment under the Section 4 was attracted where pursuant to Section 3 of the Act property has been acquired from proceeds of crime. He submitted that the petitioner had induced his front-man to inject money through a loan to the society without the permission of the Circle Registrar. And on the basis of such loan certain property was allotted to the front-man of the petitioner, Altaf Hussain, even though the sale transactions in relation to such properties allotted to Altaf Hussain were undertaken by the petitioner and the proceeds of such sale

was also received by the petitioner, who purchased his own house from such proceeds and consequently Section 3 and 4 of the Act were attracted.

4. This Court through its order dated 12.12.2022 granted bail to the petitioner in relation to charges brought against him under FIR No.19/2021. While passing such order this Court observed that affecting arrest with a delay of months while the petitioner was in state custody in relation to another FIR, prima facie seemed to be aimed at defeating the petitioner's right to the concession of bail on statutory grounds. This Court had also observed that the role of the petitioner in purportedly procuring illegal funds on behalf of the society was one of further inquiry. As the Court, in view of the material placed by the prosecution in Crl. Misc No. 1519-B of 2022 came to the conclusion that the petitioner was entitled to bail on grounds of further inquiry in relation to Sections 109, 409, 420, 468, 471 and 477-A of PPC, his case in relation to Sections 3 and 4 of the Act also automatically becomes one of further inquiry. In the event that the petitioner is found not to be liable for the charges brought

against him pursuant to FIR No. 19/2021, the basic charge against the petitioner in the instant matter that he has procured property from proceeds of crime would whither away. The prosecution has failed to place any material before the Court to establish that the petitioner is recipient proceeds of crime. As such question remains to be determined in the case registered under FIR No.19/2021, the prosecution has failed to place sufficient material before the Court in the instant case to establish that ingredients of an offence under Sections 3 of the Act are made out in the instant case. The prosecution has also failed to satisfy the Court as to why charges have not yet been framed against the petitioner or why there was a delay in affecting his arrest in the instant case while he remained in police custody.

5. This Court is not convinced that the prosecution has placed before the Court sufficient material to support the belief that the petitioner is liable for the offence that he has been charged with pursuant to FIR No. 20/2021. This Court also finds that the question of receipt of funds by the petitioner that constitute proceeds of crime is also one

of further inquiry for purposes of Section 497(2) of Cr.P.C. Therefore, the petition is **allowed**. The petitioner is admitted to bail subject to furnishing bail bonds in the sum of Rs.1,000,000/- (Rupees One Million) with one local surety in like amount to the satisfaction of the learned trial Court. The petitioner shall be at liberty to deposit cash surety in accordance with the policy of this Court. The concession of bail may be cancelled by the competent Court under Section 497(5) Cr.P.C, if the petitioner misuses it in any manner, including causing delay in the expeditious conclusion of the trial.

6. Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which ought not prejudice the proceedings before the learned trial court.

(BABAR SATTAR)
JUDGE