

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl.Misc.No.200-B of 2020
Khawaja Nasir Ali
Versus
The State

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	24.03.2020	Mr. Afzal Tahir, Advocate for the petitioner, Mr. Muhammad Nadeem Khakwani, Assistant-Attorney General alongwith Mr. Zia Hassan, Inspector/FIA with record.

Through the instant petition, the accused/petitioner, Khawaja Nasir Ali, seeks post-arrest bail in case FIR No.01, dated 17.02.2020, under Sections 420,468,471 and 109 of the Pakistan Penal Code read with section 5 (2) of the Prevention of Corruption Act, 1947, registered at Police Station F.I.A. Corporate Crime Circle, Islamabad.

2. Earlier petition for bail after arrest of the petitioner was dismissed by the learned Judge Special Court (Central), Islamabad vide order dated 28.02.2020.

3. Learned counsel for the petitioner submits that the petitioner is innocent; that the petitioner cannot be connected with the commission of the offence; that to the extent of the petitioner the case is one of further inquiry; that there are no pending departmental enquiries against him; that the petitioner performed his duty according to the standard operating procedure; that he has been falsely involved in the case with malafide intention; that the alleged occurrence is of the year 2012 whereas the F.I.R. was registered in the year 2020 after delay of 08 years; that the petitioner is behind the bars since his arrest on 18.02.2020; that the offence does not fall in the prohibitory clause of section 497 (1) Cr.P.C.; that he is no more required for investigation; and that the petitioner is also

entitled for grant of bail on the principle of consistency as co-accused Zulfiqar Khan Jadoon has already been granted bail by this Court vide order dated 12.03.2020. Learned counsel prayed for the petition to be allowed and the petitioner to be released on bail.

4. On the other hand learned A.A-G opposed the bail petition by submitting that the petitioner has been specifically nominated in the F.I.R.; that the petitioner in connivance with co-accused prepared fake allocation of funds amounting to Rs.4.4. million with scanned signatures of the Deputy Director General Finance and Member Finance C.D.A.; that the F.I.R. against the petitioner was registered consequent upon enquiry number RE-12/2016; that the petitioner was holding office of the Assistant Finance Adviser at the time when offence was committed; that the accused petitioner performed pivotal role in commission of the offence; that the petitioner issued letters for allocation of fund on a note initiated directly by co-accused Waqar Ahmed Awan; that the petitioner issued letters for allocation of fund without observing the procedure; and that petitioner having committed a heinous crime is not entitled for concession of bail. Learned Counsel requested for the petition to be dismissed.

5. I have heard learned counsel for the parties as well as learned A.A-G. and have perused the record with their able assistance.

6. According to the F.I.R., allegation against the petitioner is that while he was posted as Assistant Finance Advisor C.D.A. he issued a letter dated 02.10.2012 for allocation of funds amounting to Rs. 4.4 million. It is also mentioned that the said allocation was made without observing procedural requirements and by forging scanned signatures of the Deputy Director General Finance and Member Finance C.D.A. The

said funds were allegedly allocated after an official note was initiated by Deputy Director P-I, C.D.A. without approval of the concerned authorities and the funds were utilized in the nature of petty works for which most quotations were issued to a specific contractor. In the F.I.R. co-accused Zulifikar Khan Jadoon, Director C.D.A. is alleged to have approved the allocation of funds without checking the facts and procedure.

7. Case against the petitioner is based on public documents and apparently there is no apprehension of his tampering with the same. The offences alleged against him in the F.I.R. entail maximum punishment of seven years with or without fine, as such the said offences do not fall under the prohibitory clause of section 497 (1) Cr.P.C.

8. The role of the petitioner is *prima facie* indistinguishable from the co-accused Zulfiqar Khan Jadoon as against both the accused allegation is to the extent of the approval of the official note wherein alleged forgery of signature was committed. True that it is also alleged against both the accused that they failed to check the violation of procedural requirements in the approval process but the F.I.R. does not disclose extent of their responsibilities under the rules of business, therefore, at this stage their role seems to be identical. Now the said accused Zulfiqar Khan Jadoon had been granted bail vide order dated 12.03.2020 passed by this Court in Criminal Miscellaneous Petition No. 178-B of 2020. As such the petitioner deserves the same treatment and is entitled for grant of bail on the rule of consistency.

9. In view of the above tentative assessment, the petitioner, Khawaja Nasir Ali, is admitted to post arrest bail subject to furnishing of

bail bonds in the sum of Rs. 500,000/- with one surety in the like amount to the satisfaction of the learned trial Court.

**(MIANGUL HASSAN AURANGZEB)
JUDGE**

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