

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

Criminal Misc. No. 178-B/2020  
Zulfiar Khan Jadoon  
Vs  
The State etc

| <b>S. No. of order/ proceedings</b> | <b>Date of order/ Proceedings</b> | <b>Order with signature of Judge and that of parties or counsel where necessary.</b> |
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| 12.03.2020 | Mr. Tariq Mehmood Jhangiri, Advocate for petitioner.<br>Ch. Muhammad Tahir, learned AAG alongwith Zia ul Hassan, Inspector/FIA CCC. |
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This is post-arrest bail petition by accused-petitioner {Zulfiqar Khan Jadoon} in case FIR No.01 dated 17.02.2020, under Sections 420, 468, 471, 109 PPC read with 5(2) 47 of PCA, Police Station FIA Corporate Crime Circle, Islamabad.

2. The petitioner applied for post arrest bail to the learned Special Judge Central, Islamabad which was rejected vide order dated 28.02.2020, hence present petition.

3. Learned counsel for the petitioner contends that offences mentioned in the FIR are not attracted to the extent of present petitioner; that he did not prepare the alleged forged documents; offences under sections 420 & 471 PPC are bailable while offence under section 468 PPC although is non bailable but is not included within the ambit of prohibitory clause of section 497 Cr.PC and is not attracted to the extent of petitioner.

Learned counsel further submits that the only allegation against the petitioner is regarding commission of procedural irregularities; that there is inordinate delay of

eight years in lodging of the FIR; that petitioner stood retired after rendering 32 years of unblemished service in CDA and that petitioner has no criminal record.

Further submits that section 5(2) 47 of PCA is punishable with imprisonment which may extend to seven years, again said offence does not fall within the ambit of prohibitory clause of section 497 of Cr.PC; that final approval for payment is to be given by the Finance Wing and not by the petitioner; that petitioner is behind the bars since his arrest i.e. 18.02.2020 and therefore, is entitled to the concession of bail. Learned counsel placed reliance upon case laws reported as PLD 1995 SC 34, PLD 2011 SC 509, 1996 SCMR 1132, 2017 PCR.LJ 674 [Islamabad], 2014 PCr.LJ 1223 [Islamabad], 2017 PCr.LJ Note 70 [Lahore], 2012 YLR 2727 [Sindh], 2010 MLD 1146 [Lahore] and 2006 PCr.LJ 215 [Lahore].

4. Conversely, learned State Counsel states that role of the petitioner was that he knowingly endorsed the approval of funds of Rs.4.4 Million on fake approval and also approved the fake quotations; Huge public exchequer is involved in the case; that bail petition is premature as no longer period has been elapsed to his arrest, therefore, petitioner is not entitled for concession of bail.

5. Arguments heard, record perused.

6. As per contents of FIR, upon enquiry by the FIA, it revealed that fake allocation of funds to the tune of Rs.4.4 Million with scanned signatures of Deputy Director General Finance and Member Finance CDA was prepared and

approved in 2012. The petitioner, at the relevant time was holding the portfolio of Deputy Director P-1 and initiated a note and forwarded the file directly to Assistant Finance Advisor Khawaja Nasir Ali without authorization of concerned authorities for allocation of funds. The letter of allocation of funds was issued by Assistant Finance Advisor Khawaja Nasir Ali on 02.10.2012 while the funds were utilized in the name of petty works under fake quotations and approval of the then Director CDA present petitioner who did not check the fake quotation and procedure adopted for allocation of these funds.

7. Admittedly, challan has not yet been submitted. The material collected by the prosecution is silent as to whether any amount had been paid or received by the petitioner. Nothing has been recovered from his possession. As far as offences under sections 420 & 471 PPC mentioned in the FIR are concerned, same are bailable while ingredients of section 468 PPC are not attracted in the light of investigation conducted so far and as stated by the I.O, even not applicable to the extent of present petitioner while same is the position of section 5(2)47 of PCA, therefore, the matter has become one of further inquiry and when case falls within the parameter of further inquiry, bail is to be granted as a matter of rule and denial is an exception. Reliance is placed upon case laws reported as *Tariq Bashir Vs The State (PLD 1995 SC 34)* and *Imtiaz Ahamd Vs The State (2010 MLD 1146)*.

8. The petitioner rendered 32 years of service and finally retired honourably after attaining the age of superannuation. The I.O. has stated that throughout his service no allegation of like nature was alleged against him, therefore, previous service record of the petitioner is clean and unblemished.

9. The prosecution case is entirely based on documents and in such like eventuality there is no possibility of tampering with the evidence. In like offences bail was granted by the Hon'ble Supreme Court of Pakistan in case reported as 1996 SCMR 1132 by holding that:-

**"The objection of the learned counsel regarding addition of section 409 PPC may carry some weight while considering the bail application. As there is no possibility of tampering with the evidence, which is entirely documentary in nature and in possession of the prosecution."**

The dictum *{ibid}* was also made basis for grant of bail in another case by the Hon'ble Lahore High Court reported as 2016 PCr.LJ 202.

10. In view of the above, case to the extent of present petitioner falls within the ambit of further inquiry. There is no chance that evidence will be destroyed or tampered by the petitioner. The challan has not yet been submitted, while the investigation has been completed and no purpose would be served to keep the petitioner in jail for indefinite period.

11. In view of above, instant bail petition is allowed. The petitioner {Zulfiqar Khan Jadoon} is admitted to post-arrest bail subject to furnishing bail bonds in the sum of Rs.100,000/- with one

surety in the like amount to the satisfaction of the learned Trial Court.

12. Needless to mention that above is only tentative assessment for the purpose of instant bail petition and shall not effect/influence trial of the case in any manner.

**(FIAZ AHMAD ANJUM JANDRAN)**  
**JUDGE**

Imran