

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

Crl. Misc. No.211-B/2020

Muhammad Rafique

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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31.03.2020

Mr. Tariq Bilal and Mr. Muzammil Aftab, Advocates for
petitioner.

Mr. Faisal Bin Khurshid, Advocate for IESCO/complainant.

Barrister Muhammad Mumtaz Ali, AAG.

Sajid, Inspector, FIA.

MOHSIN AKHTAR KAYANI, J: Through this
criminal miscellaneous petition, the petitioner has applied for
post arrest bail in case FIR No.10, dated 02.08.2019, under
Section 420, 464, 468, 471, 473, 419, 409, 109 PPC read with
Section 5(2) PCA, 1947, P.S. FIA Anti-Corruption Circle,
Islamabad.

2. Brief facts as referred in the FIR are that consequent
upon enquiry No.90/2019 of P.S. ACC FIA, Islamabad, it
transpired that Muhammad Naeem Ex-RO-1, IESCO Sub-
division-1, Islamabad, Khalid Mehmood, Commercial
Assistant, CSO-1, IESCO Div-1, Islamabad, Muhammad
Rafique, the then Accounts Assistant RO-1, IESCO
Sub-division-1, Islamabad and Gul Khatab (a private person)
in connivance with each other prepared and posted bogus
scrolls relating to IESCO Consumer Bills using fake
statements alongwith bill stubs with fake bank stamps of an
amount of Rs.43 Million (approximately) in the month of June
2019 only. They also got cleared and verified all these bogus
scrolls and stubs and reconciled them with the bogus
monthly bank statements through Khalid Mehmood
Commercial Assistant. These cleared and reconciled bogus

scrolls and fake bank statements were then forwarded for further posting in the IESCO online system at Computer Section. As per interim report of IESCO Departmental Enquiry Committee, said amount has been found as Rs.207,752,411/- for a period from July 2018 to June 2019. Hence, these persons have allegedly caused colossal loss to national exchequer by misuse of authority, criminal misconduct and breach of trust. The above narrated facts prima facie constitute offences U/S 420, 464, 468, 471, 473, 409, 109 r/w 5(2) of PCA, 1947. Therefore, after approval, a case has been registered against (1) Muhammad Naeem, RO IESCO Sub-Division Taxila (2) Kahlid Mehmood, Commercial Assistant, CSO-1, IESCO Sub-Division-1, Islamabad (3) Muhammad Rafique, Accounts Officer, IESCO Sub-Division, Talagang, Distt. Chakwal and (4) Gul Khatab (37405-3458017-1) r/o Jan Colony, Tench Bhatta, Rawalpindi.

3. Learned counsel for petitioner contends that petitioner being Accounts Assistant RO-I, IESCO, Sub-Division-I, Islamabad has been nominated in the FIR, but he is not involved in this case nor he has made any fake entry in the record of IESCO through which loss has been caused to public ex-chequer; that only one private person has recorded a statement against the petitioner that he has received the amount against three electricity bills and provided cleared/paid bills, which were subsequently found to be not paid, although such matter requires evidence and probe; that the co-accused namely Asif Rehman/Account Assistant, Abid Mehmood/Stamp Maker, Tariq Mehmood/Private Person and Waqas Javed/Sanitary Worker of IESCO have already been granted post arrest bail, therefore, principle of consistency is applicable in this case, especially when challan has been submitted in the Court and petitioner is no more required for the purpose of investigation.

4. Conversely, learned counsel for IESCO as well as learned State Counsel contends that petitioner is nominated in this case with specific role of causing huge loss to public ex-chequer on the basis of fake entries in scrolls; that without fake entries made by the petitioner in IESCO Scroll System the fraud could not have been committed and the petitioner has shared his liability with other co-accused persons, who were operating in gang; that the role of the petitioner is different to that of other co-accused persons, who have been granted post arrest bail; that offence with which the petitioner has been charged falls within prohibitory clause of Section 497 Cr.P.C.

5. I have heard the arguments and perused the record.

6. Tentative assessment of record reflects that petitioner is nominated in case FIR No.10, dated 02.08.2019, under Section 420, 464, 468, 471, 473, 419, 409, 109 PPC read with Section 5(2) PCA, 1947, P.S. FIA Anti-Corruption Circle, Islamabad lodged on the complaint of Babar Mehmood, Deputy Manager (Operations), IESCO, Division-I, Islamabad. The FIA authorities consequent upon Inquiry No.90/2019, nominated the petitioner being Accounts Assistant, RO-I, IESCO, Sub-Division-I, Islamabad.

7. The cursory glimpse of record reflects that the petitioner being Accounts Assistant was dealing with the salary, medical as well as T&DA bills and he had nothing to do with bills collection and posting process or preparation of scrolls.

8. I have confronted the Investigating Officer of this case regarding the role of the petitioner, whereby it has candidly been conceded that petitioner has not participated in the preparation of any record of fake entries of scrolls, rather he has been involved on the statement of PWs namely Syed Liaquat Hussain Bukhari and Muhammad Akhtar, who

were employees of a shopkeeper in F-7 Markaz, Islamabad and presented bills of Block No.20 (Basement), F-7 Markaz, Islamabad amounting to Rs.38,299/-, Rs.49,246/- and Rs.70,514/- for the months of April, May and June of 2019 to the present petitioner, who in turn had provided them with the paid copies of the said bills, which were ultimately found to be not paid.

9. The abovementioned stance of Investigating Officer has been verified from the record and as such, the petitioner is involved to the extent of loss caused to the private individuals in three bills of electricity amounting to Rs.158,000/- approximately.

10. Besides the above referred position, the other co-accused persons namely Asif Rehman/Account Assistant, Abid Mehmood/Stamp Maker, Tariq Mehmood/Private Person and Waqas Javed/Sanitary Worker of IESCO have already been enlarged on post arrest bail through Cri. Misc. No.621-B/2019, Cri. Misc. No.633-B/2019 and Cri. Misc. No.740/BC/2019. Moreover, there is no apprehension of tempering of evidence collected by the Investigating Officer of this case to the extent of petitioner, while the principle of consistency is also applicable in this case, therefore, in such circumstances, the rule of consistency has to be applied in letter and spirit. Reliance is placed upon 2016 SCMR 907 (Abid vs. The State) and 2008 SCMR 249 (Muhammad Azam vs. The State).

11. It is trite law that even a slightest doubt, if comes on record at bail stage, it would be counted in favour of accused person. Reliance is placed upon 2017 P.Cr.LJ 558 Lahore (Muhammad Usman vs. The State). As such, the case of petitioner falls within the ambit of further inquiry and the trial has not yet been commenced, whereas the petitioner is behind the bars since 02.08.2019 and no useful purpose

would be achieved by keeping the petitioner behind the bars, especially when other co-accused persons similar to the petitioner have been granted post arrest bail and the present circumstances require the application of status quo of equality i.e. to follow the rule of consistency. Reliance is placed upon 2020 SCMR 185 (Muhammad Javed Hanif Khan vs. NAB).

12. Keeping in view the above position, the instant criminal miscellaneous for post arrest bail is hereby ALLOWED. The petitioner is admitted to post arrest bail subject to furnishing of bail bonds in the sum of Rs.100,000/- with one local surety in the like amount to the satisfaction of the learned Trial Court or to deposit cash surety in the like amount.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.