

Form No: HCJD/C-121.

**ORDER SHEET.**

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

**Criminal Misc. No.819/B of 2019**

**Muhammad Imran Paracha**

**VS**

**The State.**

<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>
	<b>08.01.2020.</b>	<b>Mr. Muhammad Munir Paracha, Advocate for petitioner. Syed Muhammad Tayyab, learned Deputy-Attorney General. Mr. Babar Bakht Qureshi (PSP), Director Counter-Terrorism Wing, F.I.A., Islamabad. Shahid Parvez, Inspector/I.O., Counter-Terrorism Wing, F.I.A., Islamabad.</b>

**AAMER FAROOQ, J. -** The petitioner, Muhammad Imran Paracha son of Abdul Wasay Paracha, seeks bail after arrest in case F.I.R. No.01/2019, dated 25.07.2019, Police Station Counter-Terrorism Wing (CTW)/F.I.A., Islamabad for offences under section 11N Anti-Terrorism Act, 1997, read with section 3/4 Money Laundering Act, 2010, sections 4 (1)5/23 of Foreign Exchange Regulation Act, 1947 as well as section 14 of Foreigners Act, 1946 and 109 P.P.C.

2. The case of the prosecution against the petitioner is that one Ahmad Shah was

designated as a person having links with Taliban/Al-Qaeda and is involved in terrorism related activities and is running illegal business of *Hawala* and *Hundi* and on the said basis the matter was sent to the Government of Pakistan under United Nations Security Council Resolution No.1267; inquiry was initiated by Federal Investigation Agency (Inquiry No.34/2019) and during the course of the same a raiding team conducted raid at Office No.5, situated at second floor, Ahmdard Plaza, Munsafi Road, Quetta and took in custody various cheques and other documents. The petitioner was apprehended during the course of investigation as his Cell No.0341-8000867 was mentioned in two of the accounts maintained with Muslim Commercial Bank and Bank Al Baraka.

3. The petitioner applied for bail after arrest, which was dismissed, vide order dated 20.12.2019.

4. Learned counsel for the petitioner, *inter-alia*, contended that the petitioner has no role in the matter; that even in the statement under section 164 Cr.P.C nothing has been confessed about terrorism activities or even conducting business of *Hawala* and *Hundi*. Learned counsel for the petitioner

further contended that section 11N of the Anti-Terrorism Act, 1997 only provides punishment for offences under sections 11H to 11K of the said Act and it is not clear under which particular provisions of law the petitioner is being implicated. It was submitted that nothing is to be recovered from the petitioner and the case against him is one of further inquiry.

5. Learned Deputy Attorney General alongwith Mr. Babar Bakht Qureshi (PSP) Director Counter-Terrorism Wing, F.I.A., Islamabad, *inter-alia*, contended that since under the United Nations Security Council Resolution No.1267, it is incumbent upon the Government of Pakistan to keep the designated person in the proscribed list under Anti-Terrorism Act, 1997 but also to conduct criminal investigation and prosecution for punishing the said person. It was contended that the petitioner was an employee of the principal accused namely Ahmad Shah and made a statement under section 164 Cr.P.C. to the effect, wherein he admitted his guilt. It was also submitted that Ahmad Shah is a Member of proscribed organization, however, is an absconder but the petitioner is an aider and abettor being the employee. It was

submitted that the petitioner was found guilty during the course of investigation. It was specifically inquired from the Director Counter-Terrorism Wing, Federal Investigation Agency whether there is any incriminating evidence against Ahmad Shah or the petitioner to the effect that they are involved in terrorist financing or actual terrorism activities; however, the reply was that since United Nations has made Ahmad Shah a designated person, hence he is involved in the matter.

6. Arguments advanced by learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

7. The petitioner is implicated in offences mentioned hereinabove. After his apprehension, he made a statement, on 12.12.2019, under section 164 Cr.P.C before the Judicial Magistrate. The bare perusal of the said statement shows that he admits being employee of Ahmad Shah and maintaining ledgers for him, however, the confessional statement does not mention the nature of the entries made in the ledgers or the activities of the principal offender Ahmad Shah. The mere fact that the petitioner is

employee of Ahmad Shah does not implicate him in any manner with the offences charged. *Prima facie* the prosecution has not been able to show anything on record to establish that the petitioner is linked with the proscribed activities of Ahmad Shah. In view of the referred position, case against the petitioner is one of further inquiry. On repeated queries of the Court, the respondents failed to specify which particular provision of sections 11H to 11K is attracted in the facts and circumstances. Even otherwise, the punishment for sections 11H to 11K is minimum of five years and not exceeding ten years and fine. It is established principle that for the purposes of bail it is the lesser sentence that is taken into account and on the said basis since the minimum punishment is five years it does not fall within the prohibitory clause of section 497 Cr.P.C. In such like cases grant of bail is a rule and refusal is an exception as provided in case reported as "*Tariq Bashir and 5 others Vs. The State*" (**PLD 1995 SC 34**). As noted above, it was inquired from the prosecution time and again during the course of hearing, as to the evidence collected so far and no assistance as to that was rendered and the only basis justifying the arrest of the

petitioner was the principal offender namely Ahmad Shah being on designated list. At the stage of bail though deeper appreciation of evidence cannot be made and it is only tentative assessment that is made but so far the prosecution has not collected any independent evidence with respect to the offences mentioned hereinabove. In criminal law, the prosecution has a heavy burden of proof and it has to discharge the same by establishing beyond reasonable doubt the guilt of the prosecution and for the same cogent evidence is required. The offences of such nature as this one is a hybrid of white collar crime and a conventional offence and special expertise is required to investigate such like matters and it is expected that the Federal Investigation Agency shall undertake the task of training its staff to meet the international standards of investigation of such like offences.

8. For what has been stated above, the instant petition is **allowed** and the petitioner is enlarged on bail after arrest in the abovementioned case subject to furnishing bail bonds in the sum of Rs.1,00,000/- (Rupees One Hundred Thousand Only) with one (01) surety in the

like amount to the satisfaction of learned Trial Court. The petitioner shall also surrender his passport and his name shall be placed on Exit Control List (ECL). The petitioner may furnish surety in cash.

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**

**(AAMER FAROOQ)**  
**JUDGE**

*\*M. Zaheer Janjua\**