

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Miscellaneous No.613 /2020

Amanat Khan and another
Vs
State through FIA and another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	22.04.2020	Mr. Najib Ullah Khan Khattak & Mr. Mubashir Najib, Advocates for the petitioners. Mr. Sajid Mahmood, Advocate for the complainant. Raja Saad Sultan, Assistant Attorney- General. Adil S.I. FIA.

The petitioners (Amanat Khan and Nasir Khan) seek bail after arrest in case F.I.R. No.15/2020 dated 14.01.2020 under Sections 18/22 of Emigration Ordinance, 1979 registered at Police Station FIA AHTC Circle, Islamabad.

2. The case of the prosecution against the petitioners is that on the complaint of respondent No.2 the inquiry was conducted and aforementioned FIR was registered. It has been alleged in the FIR that the petitioners alongwith others obtained a sum of Rs.24,00,000/- (twenty-four lac) from the complainant for the purpose of procuring visa for United States of America in December 2018; despite

lapse of a considerable period the needful was not done and even the money has not yet been returned.

3. The petitioners applied bail after arrest before the Special Judge Central, Islamabad which was dismissed vide order dated 10.03.2020, hence the instant application.

4. Learned counsel for the petitioners, *inter alia*, contended that there is a considerable delay in lodging of FIR; that the offences in question entail maximum punishment of 14 years or fine. It was contended that for the purpose of bail it is the lesser punishment that is taken into account and the lesser punishment is fine, hence the petitioner is entitled to bail. It was further submitted that due to delay the case has become one of further inquiry. It was also contended that investigation stands concluded and the petitioners are no longer required for the same.

5. Learned State counsel alongwith learned counsel for the complainant, *inter alia*, contended that sum of Rs.24,00,000/- was obtained from the complainant and neither visa has been procured nor the amount has been returned. It was contended that the agreement was executed wherein the petitioners admitted the liability of Rs.24,00,000/- and tendered two cheques as guarantee which, on presentation, were dishonoured. It was further

submitted that during investigation the petitioners have been found guilty.

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

7. The petitioners have been implicated in the offences mentioned hereinabove. The said offences entail maximum punishment of 14 years and minimum of fine. It is trite law that for the purpose of bail lesser punishment is taken into account, hence since the lesser punishment is fine, the case of the petitioners does not fall within the prohibitory clause as such. The alleged occurrence is of December 2018 whereas the request was made to FIA to investigate the matter in April 2019, hence there is a delay of 4 to 5 months which is unexplained. The referred delay makes the case against the petitioners one of further inquiry. The investigation stands concluded and the petitioners are not required for the same, hence the continuous incarceration shall service no purpose.

8. For what has been stated above, the instant bail application is allowed. The petitioners are admitted to bail after arrest subject to furnishing bail bonds in the

sum of Rs.2,00,000/- each with one surety each in the
like amount to the satisfaction of the learned Trial Court.

(AAMER FAROOQ)
JUDGE

M.NAVEED