

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

Criminal Misc. No. 330-B/2021

Reginald Chude Bjekwe

Versus

The State & another.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
(03)	22.04.2021	Ch. Azmat Gujjar, Advocate for the petitioner / accused. Mr. Saqlain Haider, Assistant Attorney General. Kashif Ali, S.I./F.I.A/A.H.T.C, Islamabad.

Through the instant petition, the petitioner seeks bail after arrest in case F.I.R. No. 580/2020, dated 08.12.2020, offences under section 420, 468, 471, 109 PPC, 18(b), 22(b) E.O. 1979, registered at police station FIA/AHTC, Islamabad.

02. It is reported by the Head of Counselor Section, Embassy of the Turkey, Islamabad to F.I.A authorities that the petitioner / accused came to Counselor Section of Embassy to get information on Turkish visa regime for blue U.N. passports and presented purportedly forged U.N. passport and U.N. I.D. Card in his name, so on the basis of suspicion, the instant FIR was registered.

03. Learned counsel for the petitioner / accused contends that the petitioner has falsely been implicated in this case; he has got no concern with the commission of offence. He further contends that there is no expert report available on record which shows that the passport and I.D Card presented by the petitioner / accused were fake

and has prayed for grant of bail.

04. On the other hand, learned Assistant Attorney General has vehemently opposed the bail petition on the ground that petitioner / accused is nominated in the FIR with specific allegation leveled against him, therefore, he has prayed for rejection of the bail petition.

05. I have heard the arguments advanced by learned counsel for the petitioner / accused, Learned State Counsel and perused the record with their able assistance.

06. According to the prosecution story, six Pakistani citizens hired the services of one Muhammad Afzal s/o Abdul Karim for sending them abroad and said Muhammad Afzal contacted the petitioner, who got prepared the fake U.N. passports for arranging the visas of U.K. The present petitioner visited the Turkish Embassy for the said purpose and presented fake U.N. passport and U.N. I.D. Card in the Embassy. When confronted, the Investigating Officer stated that till to-date no report has been received from the U.N. authorities regarding the genuineness or otherwise of the passport and I.D Card produced in the Embassy by the present petitioner.

07. According to Investigating Officer, main accused in this case is Muhammad Afzal, who took money from the Pakistani citizens and from whose possession fake and genuine passports of the Pakistani citizens have been recovered. The prosecution witnesses in their statements

recorded under section 161 Cr.P.C. have implicated Muhammad Afzal as the principle accused and have even not named the present petitioner as their accused. The room in the guest house from where the passports have been recovered and where the present petitioner and co-accused Muhammad Afzal were staying, were also booked by Muhammad Afzal / co-accused. Said Muhammad Afzal / co-accused has been released on bail after arrest vide order dated 15.12.2020 passed by learned Special Judge Central, Islamabad.

08. It is admitted at all ends that the co-accused placed at higher rung has been released on bail, hence the present accused is also entitled for the grant of bail on the principle of consistency. Reliance is placed on a case titled as **“Ghulab Khan V. Chairman N.A.B and another” (2020 SCMR 285).**

09. Investigation in the case has been completed. The Investigating Officer has informed that challan in the case has been finalized. Without dilating upon merits of the case, lest it may prejudice case of either side, undisputedly, sections of law leveled in the F.I.R. provide two alternate punishments, imprisonment for 14 years or fine or both. In such like cases it has been consistent practice of this Court to allow bail on the principle that when Statutes provide two punishments then for the purpose of bail, the lesser one is considered. Whether the trial Court

after recording evidence, inflicts sentence of imprisonment or fine, it is the sole discretion of that court which cannot be ascertained at this stage. However, this statutory provision itself, makes case of the petitioner as one of further enquiry as to which punishment is to be inflicted.

10. Accused is previously non-convict; no more required for investigation and he is behind the bars for the last more than four months, but his trial has not seen any fruitful progress as yet.

11. Offences under section 420, 471 PPC are bailable, as far as section 468 PPC is concerned, there is no opinion of U.N. authorities is on record that recovered passports and I.D. Card are fake rather the opinion is still awaited.

12. It has been held by the Hon'ble Supreme Court of Pakistan in a case titled as "Hamid Ali V. State (2009 SCMR 734)" that *"keeping in view other facts and circumstances of the case, namely that the sentence under sections 17/22 of Emigration Ordinance, 1979 is up to 14 years, investigation of the case has been completed, challan of the case has been submitted, as per admission of both the sides and the transaction between the parties seems to be in respect of dispute of money, which statedly petitioner and his son Bilal Ahmad (P.O.) had received from the complainant on the ground that he be sent to Dubai along with work permit, but he failed to meet his commitment fulfilled, we are of the opinion that no useful purpose will be served by keeping the*

petitioner in custody for an indefinite period, because it is not known that how much time will be consumed by the prosecution in completion of the trial”.

13. I do not find this to be a case where bail should be refused as an exception. Ultimate conviction can repair the wrong caused by mistaken relief of bail after arrest but no satisfactory reparation can be offered to the accused for his unjustified incarceration if he is acquitted ultimately.

14. A tentative assessment of record shows that present petitioner has made out a case of further inquiry.

15. In view of above, instant petition is accepted and the petitioner is admitted to bail subject to furnishing bail bonds in the sum of **Rs. 200,000/- (Two Hundred Thousand only)** with one surety in the like amount to the satisfaction of learned trial Court.

16. Needless to mention that, this is a tentative assessment which shall not affect the trial of case in any manner.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Bilal

Approved for reporting.