

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 654/B/2019.

Ashiq Hussain Babar

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	30.10.2019.	Ch. Naeem Ali Gujjar, Advocate for petitioner. Barrister Muhammad Mumtaz Ali, AAG. Mr. Afzaal Qadeer Satti, Advocate for respondent No.2. Naeem Khan Niazi, Inspector, FIA/CCC.

Through this CrI. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.02, dated 30.07.2019, U/S 420, 468, 471, 467, 109, 3, 4 PPC, read with Section 5, 2(47) PCA, P.S. FIA/Corporate Crime Circle, Islamabad.

2. Brief facts referred in the instant FIR are that consequent upon inquiry No.06/2018 initiated on the complaint of respondent No.2 it transpired that a bogus power of attorney and an affidavit was prepared and used in civil suits as well as in CD for transfer of plot (House) No.07, Street No.02, F-8/3, Islamabad owned by Ms.t Shagufta Tanveer Zaffar, resident of Panama City Florida, USA. The power of attorney and affidavit were purportedly executed by Mst. Shagufta Tanveer Zaffar on 30.10.2017 and 21.11.2017 respectively, in Pakistan Embassy at Bahrain in favour of accused Umar Abbasi and attested by accused Ashiq Hussain Babar Consular Assistant at Embassy of Pakistan in Bahrain. It

has been established through replies of Bahrain and USA authorities that Mst. Shagufta Tanveer Zaffar had never travelled to Bahrian and even the signatures and thumb impression of Mst. Shagufta Tanveer Zaffar and witnesses on power of attorney /affidavit are fake. The accused Ashiq Hussian Babar, Consular Assistant malafidely attested bogus power of attorney and affidavit in violation of procedure requiring the attendance of executants and witnesses for attestation.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this Case, who is a civil servant and posted in Bahrain as Consular Assistant in Embassy of Pakistan, who is under lawful duty to attest all the documents including divorce certificates, power of attorneys, affidavits, etc. as per their procedure and petitioner has attested both the documents being duty officer at the relevant time; that he has verified executants on the basis of CNIC for identification purpose at the relevant time and as such there is no connection of petitioner with Umar Abbasi principal accused and he is also not aware that any fake woman put appearance at the time of attestation of documents in Pakistan Embassy at Bahrain and as such he has not committed any offence; that investigation has been completed against the petitioner who is also suffering from heart ischemic disease and was recently operated, he has also suffered with heart attack and he could not be treated in jail hospital.

4. Conversely, learned counsel for the complainant as well as AAG with Inspector FIA contends that petitioner is the key person who has attested the fake documents as original lady never visited Bahrain in her whole life which has been confirmed from travelling itinerary as well as from documents issued by Interpol; that documents in question were verified through NADRA record and as such thumb impression and signatures available on the said documents were not matched and as such entire attestation process is based upon fraud and petitioner in connivance with principal accused Umar Abbasi has got transferred the property of Mst. Shagufta Tanveer Zaffar and as such he is not entitled for concession of post-arrest bail.

5. Arguments heard, record perused.

6. From the cursory glimpse of record, it reveals that above mentioned FIR has been registered on the complaint of respondent No.2, whereby inquiry was initiated by the FIA and during the course of inquiry it has been observed that House No.7, Street No.2, F-8/3, Islamabad belongs to Shagufta Tanveer Zaffar an American citizen which was transferred in CDA record on the basis of power of attorney executed in Embassy of Pakistan in Bahrain on 21.11.2017, whereas an affidavit was also attested on 30.10.2017 at the same location by Ashiq Hussain Consular Assistant in Embassy of Pakistan, Bahrain. The document in question was used in the Civil Court Islamabad in

different litigation as well as in the CDA office which resulted into fraud and transfer of property rights of Shagufta Zafar Tanveer despite the fact that she had never travelled to Pakistan or Bahrian, which has been confirmed through Interpol record.

7. Even otherwise, the signatures and thumb impression of the said Shagufta Tanveer Zaffar have been declared fake by the NADRA in their verification. The primary question before this Court while dealing with post arrest bail of the petitioner is the conduct and role of the petitioner, who acknowledged that he was on duty in the Embassy of Pakistan, Bahrain and attested the relevant documents but he bonafidely claims that he has attested the documents after compliance of the standard operating procedure in which Shagufta Tanveer Zaffar has been verified through her CNIC and as per his claim he has not committed any fraud nor he has neglected his lawful duty.

8. I.O has been confronted with the fact that whether any incriminating evidence has been collected during the course of investigation and whether Ashiq Hussain Babar (present petitioner) has been linked with the principal accused Umar Abbasi, whereby I.O candidly conceded that as such there is no direct evidence to link both accused persons, even no call data record or financial transaction has been observed during the course of investigation. This aspect discloses that the case of petitioner falls within the ambit of further

inquiry in terms of Section 497(2) Cr.P.C. The petitioner has been allegedly charged with the offence, which does not fall within the prohibitory clause of Section 497 Cr.P.C. The petitioner is behind the bars since his arrest and is no more required for the purposes of investigation, even otherwise, entire record is available with I.O and there is no apprehension of tempering with the prosecution evidence by the petitioner, even otherwise, no fruitful result would be achieved by placing the petitioner behind the bars.

9. At last, the complainant/respondent No.2 has nothing to do with the instant matter as the property belongs to Mst. Shagufta Tanveer Zaffar, who has not joined the investigation rather contacted the I.O through telephonic mode only.

10. The counsel for petitioner has placed certain medical record of the petitioner who was suffering from ischemic heart disease and was operated in the Bahrain Defence Force Royal Medical Services hospital and is presently under admission in the jail hospital, which has not been denied by the I.O of this case, as such all these grounds argued and raised by the petitioner before this Court entitles him for the concession of post arrest bail under the law, therefore, instant petition is allowed, subject to furnishing of bail bonds in sum of Rs.2,00,000/- (Rupees Two Lac only) with one surety in the like amount to the satisfaction of learned trial Court.

(MOHSIN AKHTAR KAYANI)
JUDGE