

ORDER SHEET  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**(JUDICIAL DEPARTMENT)**

**Criminal Misc. no. 611-B/2022**  
Muhammad Mohib (alias Waqas Shafique)  
versus  
The State

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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20.05.2022	Mr. Sajjad Haider Malik, Advocate for the petitioner Ch. Muhammad Tahir Mehmood, AAG Rehana Kausar Inspector FIA CBC	
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Muhammad Mohid (alias Waqas Shafique) seeks post arrest bail in FIR no.23/2015 dated 28.08.2015 under sections 406, 420 PPC read with section 4 Anti-Money Laundering Act, 2010 (AMLA) registered at police station FIA, Commercial Banks Circle, Rawalpindi/Islamabad.

2        The FIR narrates that one Noured Awan got registered a company by the name MMA Airlines under the guise whereof he started a foreign exchange business as MMA Forex and fraudulently induced people to invest in the forex business. The money received for investment in the forex business was instead parked in an account under the name of MMA Airlines. The FIR also nominates the petitioner qua General Manager, MMA Airlines, and Zeeshan Anwar, Protocol Officer, MMA Airlines.

3        Learned counsel for the petitioner states that the FIR originally recorded only sections 406 and 420 PPC, and section 4 AMLA was added later to bring the case within the jurisdiction of FIA. He further states that the co-accused Zeeshan Anwar, Protocol Officer, has already been acquitted under section 265-K CrPC by the trial court for the reasons, *inter-alia*, that no evidence was available on record as to the knowledge or connivance of Zeeshan Anwar in the alleged offences.

4 . The petitioner is alleged in the FIR to have connived with the principal accused Naureed Awan who is allegedly the mastermind, and who opened and operated the bank account to park the ill-gotten money. When asked, the investigation officer could not point out any evidence of connivance attributed to the petitioner, who per the FIR and the challan was only an employee of MMA Airlines. The order acquitting the petitioner's co-accused employee is also premised on there being no evidence of connivance by the employees. It is an admitted position that the account used to credit the money obtained through deceit was in the name of and was operated by the principal accused Noured Awan. Further, the alleged deception is reported to have occurred between September 2012 to October 2013, whereas the FIR is registered two years later on 28.08.2015. In the absence of any evidence of connivance, an employee cannot be fastened with criminal liability, which per the prosecution's own case was masterminded by the owner of the company.

5 The sentences under sections 406 and 420 PPC do not fall within the ambit of the prohibitory clause of section 497 CrPC. Section 4 AMLA carries a minimum sentence of 1 year, which can extend to 10 years, and it is settled law that at the stage of bail the lesser sentence is to be taken into account<sup>1</sup>. The offence of money laundering under section 3 AMLA requires proof of "*knowing or having reason to believe*" that proceeds of crime were being dealt with. As noted earlier, no circumstances have been brought forth by the prosecution which may lead to a reasonable inference that the petitioner had knowledge or had reason to believe that his boss was dealing with proceeds of crime. Further still, this is a case of documentary evidence, all of which is in the prosecution's possession, with no risk of tampering by the petitioner, which is also a ground for bail<sup>2</sup>. The principle of consistency is also attracted, as the petitioner's co-

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<sup>1</sup> 2014 PCrLJ 297; 2021 MLD 2028

<sup>2</sup> 1996 SCMR 1132

accused employee has been acquitted. Above all, as none of the offences fall within the ambit of the prohibitory clause of section 497 CrPC, grant of bail is the rule under Tariq Bashir's case (PLD 1995 SC 34), and no exceptions displacing the rule have been demonstrated by the prosecution to exist in this case.

6 . The petitioner is admitted to bail subject to furnishing bail bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the learned trial court.

7 Be it noted that all observations made in deciding this bail petition are tentative only and shall have no bearing on the merits of the case which is to be decided on the basis of the evidence led therein.

**(Sardar Ejaz Ishaq Khan)**  
**Judge**

Imran