

ORDER SHEET

THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln. No.692 of 2020

Date

Order with Signature(s) of Judge(s)

**Present: Mr. Justice Abdul Maalik Gaddi
Justice Mrs. Rashida Asad**

1. For orders on M.A. No.4571/2020
2. For orders on office objection a/w reply at flag 'A'
3. For hearing of M.A. No.4572/2020
4. For hearing of bail application.

15.5.2020.

Mr. Raja Hassan Nawaz, Advocate for the Applicant.
Mr. Zafar Ahmed Khan, Additional Advocate General, Sindh.

Abdul Maalik Gaddi, J. 1. Urgency disposed of.

2. Over ruled.

3-4. It is stated by the learned Counsel for the applicant that applicant is in custody since 11.3.2015. He further submits that Special Case No.D-238/2015 and Special Case No.E-238/2015, out of Crime No.54/2015, under Section 23(i)(a) of Sindh Arms Act, and Section 4/5, Explosive Substance Act, read with Section 7, A.T.A. of police station Azizabad, Karachi, were amalgamated by the trial Court with other connected matters, pending before trial Court being Crimes No.52 to 65 of 2015 respectively of police station Azizabad, Karachi and according to him, in these matters, trial Court has recorded evidence of all prosecution witnesses and statements of accused involved in the said crimes have also been recorded, but further proceedings could not be taken place as the learned Presiding Officer of the trial Court is on earned leave and trial is being delayed. He further submits that applicant Shabbir Ahmed is chronic heart patient with high blood pressure and is not being properly treated inside the jail, therefore, he prayed that jail authorities may be directed to provide all medical facilities to the applicant as per law. However, under the circumstances, he submits that he would be satisfied and shall not press this bail application, if instant matter along with other connected matters may be withdrawn from the file of Anti-Terrorism Court No.XVIIth, Karachi (being vacant), and transferred to any other Anti-Terrorism Court having jurisdiction for disposal of these matters as per law as early as possible.

Learned Additional Prosecutor General, Sindh present in Court in other cases, waives notice and recorded his no objection to the above propositions.

It appears from the record that accused was arrested in this case on 11.3.2015 and since then he is behind the bars, almost more than four (4) years have been passed, but trial has still not been concluded. It is observed that expeditious and fair trial is fundamental right of the accused as envisaged under Article 10A of the Constitution of Islamic Republic of Pakistan, 1973. Delay in disposal of case and imparting justice can reduce the confidence of public in judicial system and would cause frustration and anguish. The object of criminal prosecution is not to punish under trial prisoners for alleged offence and accused could not be detained for an indefinite period without remedy of trial. Under these circumstances, the instant matter along with connected matters are withdrawn from the file of Anti-Terrorism Court No.XVIIth, Karachi, and transferred to the Court of Anti-Terrorism Court No.XVIth, Karachi, for their disposal according to law. Since these matters pertain to year 2015, therefore, on receipt of files, transferee Court is directed to proceed these cases and decide the same as early as possible as per law under intimation to this Court, and no unnecessary adjournment shall be granted to either side.

Since the applicant is facing heart disease, which is not disputed, therefore, under the circumstances, Superintendent Central Prison, Karachi is also directed to provide all medical facilities to the applicant Shabbir Ahmed inside jail and if his treatment is not possible inside the jail, then he may be referred to any government recognized hospital for his treatment, but as per law.

The bail application stands disposed of in the above terms. Office is directed to send the copy of this order to the trial Court for information and compliance.

JUDGE

JUDGE

*Faizan/PA**