

SUPREME COURT OF AZAD JAMMU AND KASHMIR
[Appellate Jurisdiction]

PRESENT:

Raja Saeed Akram Khan, ACJ.

Crim. PLA No.09 of 2020
Crim. Misc. No. 13 of 2020
(Filed on 16.04.2020)

Raja Iftikhar Ahmed Khan

.....PETITIONER

VERSUS

Ehtesab Bureau

....RESPONDENT

[On appeal from the judgment of the High Court
dated 16.03.2020 in Crim. Appeal No.08/2020]

(Application for interim relief)

FOR THE PETITIONER:

Raja Fiaz Haider
Nawabi, Advocate.

FOR THE RESPONDENT:

Sardar Amjad Aslam,
Chief Prosecutor Ehtesab
Bureau.

Date of hearing: 20.05.2020

JUDGMENT

Raja Saeed Akram Khan, ACJ—Leave to appeal has been sought against the impugned judgment of the High Court dated 16.03.2020, whereby the appeal filed by the petitioner, herein, has been dismissed.

2. The summarized facts of the case are that the complainants Ghulam Hussain Mir, Muhammad Nawaz and Muhammad Shoukat (employees of the Educational Board Mirpur) filed an application before the Ehtesab Bureau against the petitioner, herein. It was stated that the alleged degree of M.A. Political Science obtained by the petitioner is doubtful. On the basis of said degree, his initial appointment and subsequent promotion as Assistant Controller, B-17, is illegal. On this application, investigation was conducted by the Ehtesab Bureau and it was found that the alleged degree is bogus. After completion of the investigation, the petitioner was challaned in the offences under sections 419/420, 468/468, 471,

APC and 10/11 of the Ehtesab Bureau Act, 2001. At the conclusion of the trial, the learned trial Court vide judgment dated 29.01.2020 convicted the petitioner under sections 420, 468, 471, APC and 10/11 of the Ehtesab Bureau Act, 2001 and awarded him 7 years simple imprisonment for each offence and also ordered for recovery of Rs.19,43,119/-, illegally received by him as salary. In appeal the learned High Court upheld the judgment passed by the trial Court, hence, this petition for leave to appeal.

3. Raja Fiaz Haider Nawabi, Advocate, the learned counsel for the petitioner stated that the impugned judgment of the High Court is against the law and facts. While referring to the documents annexure "P6" and "P7" he submitted that according to the verification of the University of Sindh Jamshoro, the petitioner's degree is genuine. This fact has not been considered by the Courts below. He further submitted that the application against the petitioner has been moved due to personal grudge. The case against the petitioner is

not proved beyond the shadow of doubt. The trial Court as well as the High Court has overlooked the important aspects of the case. He also referred the statements of some witnesses and stated that in the light of these statements the conviction order passed by the trial Court is not in accordance with law. The punishment awarded to the petitioner is harsh and liable to be set aside. While arguing on the application for grant of bail he submitted that the petitioner is behind the bar since 29.01.2020, hence, he be released on bail till the final disposal of the case.

4. Sardar Amjad Aslam Khan, Chief Prosecutor Ehtesab Bureau, stated that the case against the petitioner is fully proved. During the investigation it was found that the petitioner's degree is forged. The learned trial Court on the basis of appreciation of the evidence has rightly convicted the petitioner. No ground exists for grant of leave, therefore, this petition is liable to be dismissed.

5. After hearing the learned counsel for the parties at some length, as some important legal propositions requiring detailed deliberation are involved. Hence, leave to appeal is granted. The office shall proceed further according to rules.

Regarding the application for grant of bail, it is observed that at this stage no ground exists for granting concession of bail to the petitioner. However, the office is directed to expeditiously complete the file for final disposal.

ACTING CHIEF JUSTICE

Mirpur,
20.05.2020