

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr. Bail Application No. S-444 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

For orders on office objection.

For hearing of main case.

28.06.2021

Applicant is present on interim pre-arrest bail.

Mr. Imdad Ali Dahri, Advocate for applicant.

Ms. Rameshan Oad, Asst. Prosecutor General, Sindh.

Complainant Fazal Karim is present in Person.

=

MOHAMMAD KARIM KHAN AGHA, J- Through instant bail application, Applicant Irfan s/o Imam Bux Wassan was nominated in FIR No.34/2021, under Sections 380, 457, 411, 34 PPC, registered at P.S. Jhol. He was denied pre-arrest bail vide order dated 28.05.2021 by the learned 1st Addl. Sessions Judge / MCTC, Sanghar, therefore, has now approached this Court for getting pre-arrest bail.

2. The case of the complainant is that his one nanny goat and one goat calf were missing from his cattle pond where his servant Jugnu Bheel awaked and saw that from the cattle pond one nanny goat and one goat calf were missing and therefore, he had given such information to his owner/complainant, then the complainant reached there and followed the footprints and reached at the house of Imam Bux Wassan, who told them that present applicant had stolen his goats and he will give him faisla.

3. Heard learned counsel for applicant as well as learned Asst. P.G for State who is also acting on behalf of the complainant namely Fazal Karim, who is present in Court and instructed her to proceed on his behalf.

4. It is noted that the complainant's case is mainly based on following footprints which led to the house where three (03) goats were recovered. The applicant was then implicated in the case by Imam Bux Wassan. The main reason as to why the pre-arrest bail of the applicant was declined through the impugned order of the learned trial Court was because he had been classified as having a criminal record and therefore, did not qualify to get the pre-arrest

bail by virtue of case of **AWAL GUL RANA MUHAMMAD ARSHAD v. MUHAMMAD RAFIQUE & ANOTHER** (PLD 2009 Supreme Court 427). In this case the F.I.R was registered with a delay of two (02) days for which no plausible explanation has been furnished. The house where the footprints led to the recovery of goats did not belong to the applicant. The main piece of evidence against the applicant is of hearsay evidence. The maximum punishment for any of the offences is seven (07) years imprisonment. It has now clarified that although the F.I.Rs having been lodged against the applicant he has no C.R.O and has not been convicted in any case. Under these circumstances, I am of the considered view that this is a case of further enquiry.

5. For the reasons mentioned above, this bail application is allowed. Consequently, the ad-interim pre-arrest bail earlier granted to the applicant vide order dated 04.06.2021 is hereby confirmed on the same terms and conditions. However, the Applicant is directed to continue his appearance before trial Court till final decision of the case and trial Court shall conclude it within a shortest possible time.

6. It need not to reiterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial.


JUDGE

Hafiz Fahad