

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No. 656 of 2018
Criminal Bail Application No. 657 of 2018

Date	Order with Signature of the Judge
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For hearing of bail application.

Heard on : 07.06.2018

Decided on : 11.06.2018

For Applicants : Mr. Mohammad Hanif Sama, Advocate.

For State : Ms. Seema Zaidi, D.P.G.

Kausar Sultana Hussain, J.:- By this single order, I intend to dispose of two bail applications No. 656 of 2018 and 657 of 2018, arising out of same crime No. 66 of 2018, under Sections 468, 471, 408, 420, 381/34 PPC registered at Police Station Tipu Sultan, Karachi. On dismissal of bail Application Nos. 734 of 2018 and 733 of 2018, by the learned VIIIth Additional Sessions Judge, Karachi-South, vide order dated 28.04.2018, the applicants Umair Rashed and Aadil Mehmood have approached this Court, by filing instant bail applications under Section 497 Cr.P.C, for post pre-arrest bail.

2. The brief facts of the prosecution are that complainant namely Muhammad Akhter came at Police Station Tipu Sultan and recorded his statement under Section 154 Cr.P.C, wherein he stated that he works at SME Private Security, whose office is situated at Kawaish Crown Plaza, Shakra-e-Faisal, Karachi at 12th Floor. He is working as Security Manager Vacon Hut. In his company some officials namely CFO Masroor Ahmed and Staff (1) Asif Hussain, 2) Danish Ameer, 3) Umair Rasheed, 4) Adil Mehmood found involved in the embezzlement of money of said company, they misappropriated an amount of Rs. 1,20,00,000/- from the banks with due planning from 21.06.2017 onward and divided with them. Further CFO Masroor had transferred the vehicle of company Toyota Camera Registered No. AHL-111 and did not return the said vehicle to the company and now on the

direction of the company owners, came before the police for legal action, hence present FIR.

3. During the course of hearing instant bail application, it is inter-alia contended by the learned counsel for the applicants/accused, that the applicants/accused are innocent and has falsely been implicated in this case with malafide intention and ulterior motives by the complainant. He contended that at the time of arrest of the applicants/accused nothing has been recovered from the possession of applicants/accused, which is also mentioned in Remand Report under Section 167 Cr.P.C. dated 21.3.2018. He has further contended that the applicants/accused are employee of the said company and performing their duty honestly, the applicant/accused Umair Rasheed is working as an Invoice Officer and it is not come in the domain of the applicant/accused to issue or sign any cheque or cash, as such the liability/responsibility are CFO Masroor Ahmed, as such the said FIR has been lodged for malafide intention of complainant. Per defence counsel, entirely case of the applicant/accused depended upon documentary evidence, which is in possession of the prosecution and there is no possibility of tempering with such evidence existed with the prosecution and it is well settled principle of law that court at bail stage has to make only tentative assessments and not to go deeper appreciation of the case. He also contended that there is inordinate delay of about 09 months in lodging the FIR and no any cogent reason had been given by the complainant for such delay and complainant had lodged the FIR on the basis of hearsay evidence, the complainant has no any evidence that the forgery has been committed by the present applicants/accused. He has relied upon "2006 P.Cr.L.J 202 Lahore, 2007 YLR 484 Lahore, 2011 PSC (Cr1) 488, 1995 SCMR 170, 2005 P Cr.L.J. 985 Karachi and 2010 MLD 1971

Karachi". Per learned defence counsel, the matter requires further inquiry, whereas the applicants/accused are law abiding citizens and it is a prime facie good case for release them on bail.

4. Conversely learned D.P.G has opposed the grant of bail, as according to her sufficient material is available on record to connect the applicants/accused with the commission of crime. She further stated that learned trial court has already dismissed the bail of applicants/accused. She prayed for dismissal of present bail application.

5. I have heard the arguments and also perused the available material on record. Precisely the allegation against the applicants/accused is that they alongwith co-accused persons have misappropriated/emblazed the amount of Rs. 1,20,00,000/- of the company. The applicant/accused Umair Rasheed was performing his duties as Invoice Officer while accused Adil Mehmood was performing his duties as Payment Officer and signing or issuance of any cheque was not in their domain rather it was in the domain of main accused Masroor Ahmed Khan, who was performing his duties as CFO. Furthermore, as per charge sheet, the Investigation Officer has got the bank statements of the accounts of both applicants/accused Umair Rasheed and Adil Mehmood but neither any transaction of alleged embezzled amount was found in their accounts, nor any handsome amount was found deposited in their accounts. The case against both the applicants/accused is on hearsay and not on documentary evidence which requires further inquiry. Thus both the applicants/accused Umair Rasheed and Adil Mehmood are entitled for concession of bail. More so, the case of both the applicants/accused does not fall within the prohibitory clause of section of 497(i) Cr.PC.

6. In view of the foregoing discussion, both the applicants/accused Umair Rasheed son of Abdul Rasheed and Adil Mehmood son of Mehmood Alam are hereby admitted to bail subject to furnishing solvent surety in the sum of Rs. 2,00,000/- (Rupees two lac only) each and PR Bond in the like amount for the satisfaction of the learned trial court.

7. Needless to say that the observation recorded above are tentative in nature, therefore, the trial court shall not be influenced in any manner whatsoever.

JUDGE

Faheem/PA