

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

Criminal Bail Application No. 365 of 2018

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

Date of hearing : 26-06-2018

Date of order : 11-07-2018

For Applicants/accused : Mr. Javaid Ahmed Rajput, advocate

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

Kausar Sultana Hussain, J.:- Through instant bail application the applicants/accused are seeking pre-arrest bail in crime No.08/2018 registered at PS Soldier Bazar, Karachi u/s 406/420/468/471/506/34 PPC. The bail plea was raised by applicant/accused before learned trial Court but the same was rejected, vide order dated 07.03.2018.

2. Prima facie the allegation against the applicant/accused, as leveled in FIR by the complainant is that he met with one Salman Desai in the year 2016, who used to purchase expensive mobile phones from him. On enquiry the said Salman Desai disclosed him that he and his partner Munaf (applicant/ accused) used to give said mobile phones to Government Officers as gift, as they are running business with the registered name and style of Munaf General Orders Supplier and also supplies printing machines to Government departments. The said Salman Desai offered him to become their investor and advised to invest amount in his business for profit. On 15.01.2016 at about 1800 hours complainant went at the house of Salman Desai situated at Hurain Palace Guromandir, Karachi alongwith his uncles namely Abdullah and Javed, where applicant/accused Munaf was also present, who shown and gave him papers of his company and shown documents of bank transactions of lacs of rupees, hence he (complainant) gave a sum of Rs.10,00,000/- to said Munaf, Salman Desai and his son Ehsan in presence of his uncles Abdullah and Javed, as initial investment. Later on, he (complainant)

further gave them more amount of Rs.16,00,000/- but inspite of receiving the said amount the culprits/accused persons neither paid him any profit amount nor returned the principal amount paid by him rather issued threats of dire consequences, hence present FIR.

3. Learned counsel for applicant/accused argued that applicant/accused is innocent and has been falsely implicated in present crime with malafide intention and ulterior motives by the complainant. He further contended that applicant/accused not owns any company but the co-accused Salman Desai established the said company in his name for which, he has already lodged such FIR bearing No.243/2017 at PS New Town against co-accused Salman Desai. He also contended that applicant/accused has also filed a civil suit for recovery bearing No.338/2018 against co-accused Salman Desai, which is pending for adjudication before IVth Senior Civil Judge, Karachi East. He lastly contended that applicant/accused has not made any deal with complainant and the alleged offence does not fall within the ambit of prohibitory clause, therefore, ad-interim bail order dated 09.03.2018 passed in his favour may be confirmed.

4. On the other hand, learned D.P.G vehemently opposed the present bail application on the ground that applicant/accused has committed fraud alongwith co-accused and is very much nominated in FIR with specific role. She further argued that applicant/accused has failed to show any enmity with complainant as to why he has falsely implicated him in present crime. She lastly contended that applicant/accused is not entitled for confirmation of bail, therefore, present Pre-Arrest Bail Application may be dismissed.

5. After hearing arguments and perusal of record, I am of the considered view that the alleged offence does not come within the prohibitory clause of Section 497 Cr.PC; that there is inordinate delay of almost two years in lodging FIR as alleged crime occurred on 15.01.2016 and FIR was lodged on 11.1.2018; that no independent witnesses cited for the complainant, both witnesses are close relative of the complainant; that no documentary evidence adduced, whole case is based

on verbal communication and verbal evidence; that accused / applicant Munaf prima facie also seems to have fell prey of cheat as he already lodged FIR on 03.11.2017 with PS New Town, Karachi-East for the recovery of Rs. 72,75,000/- against Salam Desai and he also filed suit for recovery of the same amount in the Court of learned Senior Civil Judge-IVth, Karachi East against above named person, therefore, the pre-arrest bail granted earlier on 09.03.2018 is hereby confirmed on the same terms and conditions.

6. Needless to say that the observations recorded above are tentative in nature, therefore, learned trial Court shall not be influenced by them in any manner whatsoever.

JUDGE

Faheem/PA