

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

Cr. Bail. Application No.496 of 2018

Date	Order with Signature of the Judge
Date of hearing	: 17.09.2018
Date of order	: 17.09.2018
For Applicant/accused	: Mr. Muhammad Ramzan Tabassum, advocate
For Complainant.	: Mr. Faheem Memon, Advocate.
The State	: Ms. Rubina Qadir, State Counsel

Kausar Sultana Hussain, J.:- By this order I intend to dispose of this Bail application of applicant/accused Danish Ameer S/o Ameeruddin in case F.I.R No. 66 of 2018 dated 19.03.2018, under Section 468, 471, 408, 420, 381/34 P.P.C, registered at P.S Tipu Sultan, Karachi. On dismissal of bail application under Section 498 Cr.P.C. bearing No. 500 of 2018 by the learned VIIIth Additional Sessions Judge, Karachi-South, vide order dated 31.03.2018, the applicant/accused Danish Ameer has approached this Court, by filing instant bail application under Section 498 Cr.P.C. for pre-arrest bail. Applicant/accused was admitted to interim pre-arrest bail by this Court vide order dated 02.04.2018 and the order is aimed at final decision of such bail application.

2. Brief facts of the prosecution case 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 as Security Manager Wacken Hut, whose office is situated at Kawish Crown Plaza, Shakra-e-Faisal, Karachi at 12th Floor. In the said company some officials namely CFO Masroor Ahmed and Staff (1) Asif Hussain, (2) Danish Ameer, (3) Umair Rasheed, (4) Adil Mehmood found involved in embezzlement of money of said company, they misappropriated an amount of Rs.1,20,00,000/= (One Crore twenty lacs) from the banks with due planning from the period of 21.06.2017 to onward and distributed the embezzled money internally between themselves. Further

CFO Masroor has transferred the vehicle of company Toyota Camry Registered No.AHL-111 and did not return the said vehicle to the company and now on the direction of the company owners, he lodged the present FIR.

3. During the course of hearing instant bail application, it is *inter-alia* contended by the learned counsel for the applicant/accused, that the applicant/accused is innocent and has falsely been implicated in this case with malafide intention and ulterior motives by the complainant. He contended that during the currency of bail before arrest by the Court of Sessions and subsequently bail before arrest granted by this Court, the accused has joined the investigation, but nothing had been recovered from the possession of applicant/accused. He has further contended that the applicant/accused was an employee of the said company and performing his duty honestly, the applicant/accused Danish Ameer was working as Assistant Finance Officer and it was in the domain of the applicant/accused to issue or sign any cheque or receive cash, as such the liability/responsibility lies with CFO Masroor Ahmed, as such the said FIR has been lodged with malafide intention by the complainant. Per defence counsel, entire case of the applicant/accused depends upon documentary evidence, which is in the possession of the prosecution and there is no likelihood of tempering with such evidence existed with the prosecution; that it is well settled principle of law that court at bail stage has to make only tentative assessment and not to go in deeper appreciation of the case. He also contended that there is inordinate delay of about nine months in lodging the FIR and no 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 applicant/accused. The learned counsel for the applicant/accused has relied upon the case laws reported in *YLR 484 Lahore, 2011 PSC (CrI) 488, 1995 SCMR 170, 2005 P.Cr.LJ 985 Karachi*. Per learned defence counsel, the matter requires further inquiry, the applicant/accused is law abiding citizen and it is a prima facie good case for confirmation of bail before arrest.

4. Conversely, learned State Counsel assisted by the learned counsel for the complainant argued that sufficient material is available on record to connect the applicant/accused with the commission of crime. She further argued that the learned trial Court has already dismissed the bail before arrest of the applicant/accused on merits. She prayed for dismissal of present bail application.

5. I have heard the arguments of both the parties and so also perused the available material on record. Precisely, the allegation against the applicant/accused is that he alongwith co-accused persons had misappropriated/embezzled the amount of Rs. 1,20,00,000/- of the company. The applicant/accused Dansih Ameer was performing his duties as Assistant Manager Finance Department of the Company and signing or issuance of any cheque was not in his domain rather it was in the domain of main accused Masroor Ahmed, who was performing his duties as CFO. Furthermore, as per charge sheet, the Investigation Officer has got the bank statements of the accounts of applicant/accused and co-accused persons, which revealed unusual and substantial transactions only in the account of CFO Masroor Ahmed.

6. Suffice to say that from the above discussion case seems to be one of further enquiry in respect of applicant/accused. More so, the case of the applicant/accused does not fall within the prohibitory clause of section 497 Cr.P.C. Admittedly, co-accused Umair Rasheed and Adil Mehmood have already been granted bail by this Court, vide order dated 11.06.2018, and the case of the applicant/accused is on same footing though not identical, therefore, the applicant/accused is also entitled for confirmation of interim pre-arrest bail. Accordingly, pre-arrest bail granted earlier is confirmed on same term and conditions. Observations made in this order shall not prejudice the Trial Court in any manner whatsoever.

7. Above are the reasons, for short order dated 17.09.2018.