

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

Cr. Bail Appln.No.386/2017

Applicant/accused : Piran Dino @ Pir Bux Mahesar,
through Mr. Abdul Wahab Baloch,
Advocate.

Respondent : The state through Mr. Abrar Ali
Khichi,
learned APG.

Date of hearing &
Short Order : 13.04.2017

YOUSUF ALI SAYEED, J. In terms of this Bail Application, the Applicant prays that he be enlarged on bail in relation to alleged offences under Sections 161/420/467/468/471/34 PPC read with Section 5(2) of the Prevention of Corruption Act 1947, which are the subject of FIR No.15/2017 registered on 27.02.2017 with A.C.E., South, Karachi (the “**FIR**”).

2. From what is disclosed in the FIR, it appears that the allegation of the Complaint, one Tahir Iqbal who identifies himself as Deputy Manager in Sui Southern Gas Company, is that the Applicant obtained a pecuniary advantage by way of deception, in as much as it is contended that in his capacity as Deputy Director, Education Department Sindh, he took monetary gratification of Rs.350,000/- in the year 2013 on the promise of securing a position for the wife of the Complainant in the Education Department. Such sum was said to have been received by the Applicant through a third person, named Imtiaz.

3. It has been alleged that the Applicant then delivered an offer letter, appointment order, and medical fitness certificate, all in the name of the wife of the Complainant, and, thereafter, sent the Complainant to one Sarfaraz, who was posted at the Education Office in Karimabad, for the joining of his wife.

4. According to the Complainant, he met with Sarfaraz and on his directions he paid Rs.100,000/- to Mst. Rizwana Mangi, said to be the Head Mistress, Govt Girls Secondary School Jacob Line-I, for the joining of his wife. It is said that Mst. Rizwana Mangi took all the documents of his wife for further process, but later on it came to his knowledge that they had committed fraud/cheating with him and did nothing towards her appointment.

5. It is said that on 20.02.2017, he again contacted the Applicant at his house and asked about the appointment of his wife, and the Applicant delivered to him a service book in her name for affixation of her finger prints, and also demanded a further sum of Rs.100,000/-. Allegedly, at the request of the Complainant, the Applicant agreed to accept a lesser amount of Rs.80,000/-, and on the same day the Complainant gave the Applicant Rs.50,000/- in cash along with the service book containing the finger prints of his wife, promising that the remaining amount of Rs.30,000/- would be paid on 27.02.2017 during official hours.

6. Apparently, on the day appointed for payment of the balance amount, the Complainant registered the FIR and, as per the interim challan dated 13.03.2017 submitted in the matter, a trap was arranged under the supervision of a Magistrate and during the trap proceedings the Applicant was caught red handed while accepting the amount of Rs.30,000/- from the Complainant.

7. Learned counsel for the Applicant has stated that the Applicant holds no official/public post and has no nexus with the education department or any other governmental department. He submits that the failure of the Anti-Corruption Establishment to ascertain this basic fact is demonstrative of the ineptitude underpinning the investigation.

8. Learned counsel submits that the Applicant is innocent and the case is one of false implication for ulterior motive. He further submits that even as per the allegation contained in the FIR there is an appreciable and inexplicable time lag between the initial payment of Rs.350,000/- said to have been made as far back as 2013 and the last payment said to have been made in 2017.

9. Learned counsel pointed out that the initial payment was not even said to have been given to the Applicant personally, but was said to have been given to one Imtiaz. He submitted that, furthermore, the narration as to the

future course of events was ridden with gaps in as much as none of the events said to have transpired between 2013 and February 2017 are described with specificity or even with reference to definite dates, and the version of the Complainant is most implausible, as it defies belief that the Complainant would have simply let the matter linger from 2013 onwards and then parted with further sums in 2017 despite it having become obvious to the Complainant by that time as per his own statement that he had been defrauded/cheated. He points out that the only link between the Applicant and the alleged offence is the supposed acceptance of money as a bribe during the trap proceedings, but that too is deficient in as much as there are no witnesses to the conversation between the Complainant and the Applicant at the relevant time to show that the amount was received on that basis.

10. The learned APG opposed the grant of bail and contended that the Applicant was evidently guilty as he had been caught receiving the money during the course of the trap proceedings.

11. Having considered the matter, I am of the opinion that the apparent status of the Applicant as a private person, the gaps in the information given in the FIR, and the absence of empirical evidence as regards the terms on which the sums are said to have been received by him during the trap proceedings make this a matter where further enquiry is called for. Even otherwise, there has been no contention that the Applicant is a prior offender or a flight risk or in a position to interfere with or influence the investigation.

12. These are the reasons for the short Order made in Court on 13.04.2017 whereby the Applicant was enlarged on bail in relation to the FIR subject to furnishing solvent surety in the sum of Rs.100,000/- and execution of P.R. Bond in like amount to the satisfaction of the Nazir of this Court.

JUDGE

Talib