

ORDER SHEET
HIGH COURT OF SINDH, CIRCUIT
COURT, HYDERABAD

Cr. Bail Application No. S- 626 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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Applicant: Hizbullah
through Mr. Meer Ahmed Mangrio, Advocate

Ms. Safa Hisbani, Assistant P.G Sindh

Date of hearing & decision: 08.11.2021

O R D E R

ADNAN-UL-KARIM MEMON, J:- The Applicant through the captioned bail application has called in question the rejection of his Anticipatory Bail Application by the learned 2nd Additional Sessions Judge, Sanghar vide order dated 28.04.2021.

2. The allegation as per FIR against the applicant is that he was the driver of Complainant and was driving his Rivo Toyota Hilux Vehicle No. KX-3956. On 1.2.2020 applicant told the Complainant that his vehicle is being hired by NGO Mirpurkhas at the rent of Rs.1,00,000/- (Rupees one lac only) per month; with the consent of Complainant, the applicant had taken away the vehicle and was paying rent every month but three months before the lodgment of FIR the applicant stopped paying rent; and, was keeping the Complainant on false hopes and lastly he refused to hand over the vehicle and also refused to pay rent; the Complainant, therefore, being suspicious that the applicant has sold out his vehicle has lodged the FIR bearing Crime No. 03 OF 2021 under Section 420, 408 & 406 PPC at police station Peerumal District Sanghar, after a considerable period of 11 months.

3. I have heard learned counsel for the applicant and the learned APG and have also perused the material available on record. It is not disputed that according to the FIR, the date of occurrence of the alleged crime was 01.02.2020 and the alleged crime was reported on 21.01.2021. Thus there is an admitted delay of about 11 months in

reporting the alleged crime against the applicant, and such unusual and long delay has not been explained at all, let alone in a satisfactory manner, either in the FIR or during the hearing. The dispute alleged in the FIR appears to be that of civil nature detail whereof has not been disclosed in the FIR. In this view of the matter, this case requires further inquiry in my humble opinion.

4. It is also an admitted position that investigation, in this case, has been completed, challan has been submitted before the trial Court. Therefore, the applicant shall not be required for any further investigation, and there is no question or probability that the evidence will be tampered with by him or that the prosecution witnesses will be influenced by him if he is enlarged on pre-arrest bail. Moreover, the material evidence relating to the subject vehicle is yet to be looked into by the learned trial court. The guilt or innocence of the applicant is yet to be established as it would depend on the strength and quality of the evidence that will be produced by the prosecution and the defense before the trial Court. The ingredients of offenses under sections 420,406, and 408 alleged against the applicant are yet to be proved in the trial; besides that alleged offenses do not fall within the prohibitory clause of Section 497(I) Cr.P.C.

5. In view of the above, the principle that grant of bail in such offenses is a rule and refusal an exception, authoritatively and consistently enunciated by the Hon'ble Supreme Court, is attracted in the instant case. Thus, the applicant is entitled to the confirmation of bail already granted to him vide order dated 2.8.2021.

5. In view of the above, the interim bail granted to the applicant / accused vide order dated 2.8.2021 is hereby confirmed on the same terms and conditions. However, if the concession of bail is misused by the applicant in any manner whatsoever or he violates his undertaking to attend the case before the trial Court on every date of hearing, the learned trial Court will be at liberty to take action against him under law, including cancellation of bail.

6. It is clarified that the observations made herein are tentative which shall not prejudice the case of either party nor shall they influence the learned trial Court in any manner in deciding the case strictly on merits under the law.

7. This bail application stands disposed of in the above terms.

JUDGE

Sajjad Ali Jessar