

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 2079 of 2021**

Applicant : Mukhtiar Ahmed Wasan s/o Muhammad Ramzan, through Mr. Zulfiqar Ali Khan Jalbani, advocate

Respondent : The State, through Mr. Chaudhry Waseem Akhtar, Assistant Attorney General (*along with I.O. Sub-Inspector Mehwish Iftikhar of F.I.A., Corporate Crime Circle, Karachi*)

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Date of hearing : 10.03.2022

Date of order : 10.03.2022

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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Mukhtiar Ahmed Wasan s/o Muhammad Ramzan seeks post-arrest bail in Crime No. 35 of 2021, registered at P.S. F.I.A., Corporate Crime Circle, Karachi, under sections 409, 420, 109, 468, 471, 34 P.P.C. read with Section 5(2) of Prevention of Corruption Act, 1947. His earlier application for the same relief bearing No. 116 of 2021 was dismissed by the learned Special Judge (Central)-II, Karachi, vide order dated 18.10.2021.

2. It is alleged that the applicant, during his posting from 21.04.2012 to 27.11.2014 as Incharge Utility Store at Gulshan-e-Hadeed, Phase-II, South Region, Karachi (**the "Store"**), in connivance and collaboration/ abetment of other accused persons, while abusing his official position as a public servant fraudulently committed criminal breach of trust by misappropriating the stock of the said store amounting to Rs.12,713,538.00, for which he was booked in the aforesaid F.I.R.

3. Learned counsel for the applicant contends that the applicant is innocent and victim of high handedness of high officials, otherwise he has not committed the alleged offence; that there is no mention of specific date and time of the alleged incident in the F.I.R. nor there is any eye witness of

the alleged offence; that the F.I.R. was lodged with delay of nine (9) years, for that no plausible explanation is available on record; that the inquiry against the applicant was started in 2018 while the F.I.R. was lodged in the year 2021; that nothing was recovered from possession or pointation of the applicant during investigation; that the prosecution case depends on documentary evidence which is available with the prosecution; hence, there is no chance of tampering with it; that the applicant filed C.P. No. 4798/2021 before this Court against Managing Director and other officials of Utility Stores Corporation (“USC”) as well as other officials for reconciling the account; however, instead of providing opportunity of hearing and conducting fair inquiry the applicant has been implicated in this false case; that the applicant filed application No. 07(100)K before NIRC, wherein bailable warrants of arrest of high officials of USC were issued, which annoyed them, who in order to take revenge implicated the applicant in this case falsely; that the guilt of the applicant requires further inquiry.

4. On the other hand, learned Assistant Attorney General opposes the grant of bail to applicant on the ground that the applicant has caused loss of huge amount to the government exchequer by misappropriating the stock of the USC; that sufficient documentary evidence to connect the applicant with the commission of the alleged offence is available with the prosecution; hence, he is not entitled for the concession of bail; as such, the instant Cr. Bail Application is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears that the USC is a public sector corporation registered with Securities and Exchange Commission of Pakistan (SECP) under Companies Act, 2017 and working under Ministry of Industries & Production and the

applicant served as Incharge of the Store from 21.04.2012 to 27.11.2014. The instant F.I.R. was lodged by the F.I.A. consequent upon Enquiry No. 42/2018, registered on the written complaint of Mr. Sikandar Masood, Deputy Director (Admin), Ministry of Industries & Production, regarding embezzlement/misappropriation of total Rs. 2,44,06,743/- at Utility Stores of Secretariat, Frere Road and South Region, Karachi. It further appears that, on 21.04.2012, the applicant took the charge of the Store with opening balance of Rs. 16,24,716/- as on 21.04.2012 and from said date to 27.11.2014 he received stock amounting to Rs. 13,42, 52,540/- and sold the stock of Rs. 11,37,10,010/-. As per break-up given in the charge-sheet, the applicant committed embezzlement/misappropriation of Rs.1,27,13,538/- at the Store.

7. It further appears that during audit, the Special Audit Team detected the embezzlement and found that original pages of Inventory Control Legers (ICL) maintained in Regional Accounts Office of USC, South Zone, Karachi were torn off/removed and fake ICL pages were placed in ICL registers, carrying tempering with physical and debit entries and the said ICL registers were rebound. It also appears that the applicant during his service maintained various bank accounts wherein he made huge transactions amounting to Rs. 16,42,14,811/-, which he could not account for in enquiry. As such, it appears that the concrete evidence of embezzlement of huge amount has been unearthed against the applicant during investigation upon the complaint of the officer of the Ministry of Industries & Production, made pursuant to an inquiry in the light of an audit made by the Special Audit Team of USC.

8. As regard the contentions of learned counsel for the applicant, it may be observed that the prosecution has clearly mentioned that the alleged embezzlement/misappropriation has been made by the applicant during his posting tenure. Since nobody commits such offences in presence of any

person, no question of eye-witness arises. Cases of criminal breach of trust by a public servant sometime take years to come on surface; hence, delay in lodging F.I.R. in such like cases is immaterial. Applicant's claim with regard to his filing of application/petition during enquiry for reconciling the account and providing opportunity of hearing and conducting fair inquiry, are the issues that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law. Every hypothetical question which could be imagined would not make it a case of further inquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence.

9. From the tentative assessment of the material available on record, it prima facie appears that the applicant is connected with the commission of alleged offence punishable under section 409, P.P.C. with imprisonment for 10 years disentitling him for concession of post arrest bail; hence, instant criminal bail application is dismissed, accordingly.

10. The above observations are tentative in nature for the disposal of the bail application and shall not influence the trial Court while deciding the case of the applicant on merits.

JUDGE

*Athar Zai*