

**IN THE HIGH COURT OF SINDH BENCH AT
SUKKUR
Cr. Bail Application No.S-385 of 2021.**

Date	Order with signature of Judge
Applicant:	Sagheer son of Abdullah bycaste Qazi, Resident of House No. 20, Muhallad Achar Ji Street Hathi Dar, District Shikarpur.
Through:	Mr. Mehfooz Ahmed Awan, advocate.
The State:	Through Mr. Muneer Ahmed Siyal, Assistant Direct (Legal) FIA Sukkur a/w SI Muhammad Ali Sawand.
Date of hearing.	30-08-2021.
Date of decision.	30-08-2021.

ORDER.

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AMJAD Ali SAHITO, J.- Through the instant CrI. Bail Application, applicant/accused named above seeks pre-arrest bail in Crime No. 15/2020, offence u/s 03, 04, 13, 14 of PECA 2016 R/W Section 109, 406, 419, 420, 468, 471 P.P.C registered at police Station FIA CCRC Sukkur. Prior to this applicant/accused filed pre arrest bail application, which was dismissed by learned III-learned Sessions Judge Sukkur vide order dated 28-01-2021, hence he filed the instant Bail Application.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused contends that applicant/accused is innocent and has falsely been implicated in this case; that as per complaint of Mst. Bibi

Zaida and Bibi Zainaba, an inquiry was conducted and during the course of investigation, both the said ladies have not implicated the present applicant/accused in their statements; that all sections inserted in the FIR are bailable and as per directions of the Court, the applicant has surrendered before the investigation officer, but his statement was not recorded, therefore case of the applicant/accused requires further inquiry and he prays for confirmation of interim pre arrest bail.

4. On the other hand, learned Assistant Director (Legal) FIA Sukkur along with investigating officer is present and states that the applicant/accused was directed by this Court on 16-08-2021 to join the investigation, but he appeared in the office of investigating officer on Saturday at evening time, when investigating officer was not present; that written complaint of both the victim ladies namely Mst. Bibi Zaida and Bibi Zainaba were recorded and during investigation sufficient material has brought on record to connect the applicant/accused with the commission of offence; that still the applicant/accused has not joined the investigation. In support of his contention, he has relied upon the cases of *Jaffar Hussain and others Vs. The State (2007 P.Cr.L.J 615)* and two unreported cases *Crl. Bail Application No.S-90 of 2021 and Crl. Bail Application No.S-70 of 2021*, hence he opposed for confirmation of bail.

5. I have heard learned counsel for the parties and have gone through the material available on record.

6. From the perusal of record, it appears that during the course of enquiry as per provided list of illegal auto withdrawal amount of beneficiaries by the retailer/ID, 98712 received from Divisional Director Benazir Income Support Program Larkana Division, the same was sent to the HBL

Authorities for provision of record and details of alleged transactions and Biometric Device. The HBL E-Connect authorities informed the said agency that the Biometric Device No.hbpro11222 was entrusted to agent business namely MashaAllah Cold corner owner name; Sagheer (present applicant), Agent ID:98712, franchise District Shikarpur Franchise Tehsil Shikarpur Sindh for the smooth disbursement of Benazir Income Support Program/Ehsas Program along with other product. Moreover a written complaint was sent to the Assistant Director Benazir Income Support Program by two victim ladies namely Bizi Zaida and Bibi Zainaba that they have not received their installments. The investigating officer present in the Court states that, number of ladies have deprived from installments of Benazir Income Support program as the applicant has cheated with public at large. During the course of investigation, the PWs have supported the version of complainant and sufficient material has been brought on record to connect the applicant/accused with the commission of offence. At bail stage only tentative assessment is to be made and nothing has been brought on record to show any ill-will or *malafide* on the part of the complainant, which is requirement for grant of pre-arrest bail. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:-

"Grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest

bail in every run of the mill criminal case as it seriously hampers the course of investigation---the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

7. In view of above, learned counsel for the applicant/accused has failed to make out a good case for grant of pre-arrest bail in the light of sub section (2) of Section 497 CrPC. In such circumstances, the instant Crl. bail Application stands dismissed and interim order dated 21-06-2021 earlier granted to the applicant/accused is hereby recalled.

8. Needless to mention that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

Judge