

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,**  
**HYDERABAD**

Criminal Bail Application No.S-65 of 2022

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DATE	ORDER WITH SIGNATURE OF JUDGE
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15.04.2022

Mr. Imran Ali Borano, Advocate for the applicant.

Mr. Muhammad Humayoon Khan, D.A.G for Pakistan.

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**Irshad Ali Shah J:-** It is alleged that the applicant with rest of the culprits misappropriated public money in millions of rupees by making false record with regard to sell of Coal at Lakhra Coal Mining Project Hyderabad, for that the present case was registered.

2. On having been refused bail by learned Special Judge Anticorruption (Central) Hyderabad, the applicant has sought for the same from this Court by way of the instant bail application under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police otherwise he has nothing to do with the alleged incident being private person; the F.I.R of the incident has been lodged with delay of about three years; it does not contain the name of the applicant and the offence alleged against him is not falling within prohibitory clause, therefore, he is entitled to his release on bail on point of further inquiry.

In support of his contentions, he relied upon the case of *Mumtaz Ali Solangi and 5 others Vs. The State [2021 YLR Note 50]*.

4. Learned Deputy Attorney General for Pakistan, who is assisted by Investigating Officer of the case has opposed to release of the applicant on bail by contending that he has committed misappropriation of millions of rupees with aid and abatement of his brother co-accused Niaz Akhtar, who was Project Accountant with Lakhra Coal Mine and was transferring misappropriated money to him.

5. Heard arguments and perused the record.

6. No doubt the applicant is a private person but he allegedly with co-accused Nawaz Khan established Coal supplier firm with name of M/s Javed Coal Company and was being dispatched Coal by his brother co-accused Niaz Akhtar, which he was selling and then was transferring sell proceeds to his brother co-accused Niaz Akhtar and Muhammad Waleed. Vicarious liability on his part is very much evident. His name of course is not transpiring in F.I.R but it was disclosed subsequently, on investigation of the case with ample evidence, which prima facie connect him with commission of incident. In that situation, it would be premature to say that applicant being innocent has been involved in this case falsely by the police. No justification is advanced by the applicant, which may suggest that he was having enmity with the police leading to his involvement in this case falsely. The F.I.R of the incident has been lodged on noticing the misappropriation of public money; therefore, the delay in lodgment of F.I.R in such like case could hardly be made a reason for release of the applicant on bail. It is true that the offence alleged against the applicant is not falling within prohibitory clause but it certainly is falling within exceptional clause, as it is involving the misappropriation of public money to large scale. The deeper

appreciation of facts and circumstances is not permissible at bail stage. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged.

7. The case law which is relied upon by learned counsel for the applicant is on distinguishable facts and circumstances. In that case four nominated accused were let-off by the police, which suggested partial investigation, which is not the case in hand.

8. In view of above, it is concluded safely that no case for grant of bail to the applicant is made out, consequently instant bail application is dismissed with directions to learned Trial Court to dispose of the very case against the applicant within two months after receipt of copy of this order.

JUDGE

Muhammad Danish\*