

IN THE HIGH COURT OF SINDH AT KARACHI

CR. BAIL APPLICATION NO.846/2018

Applicant : Syed Rizwan Ali Naqvi.

Respondent : The State.

CR. BAIL APPLICATION NO.563/2018

Applicant : Muhammad Salman Qamar.

Respondent : The State.

Date of hearing : 14.09.2018.

Date of order : 14.09.2018.

Mr. Arshad Khan advocate for applicant in both Cr. Bail Applications
Mr. Hassan Sabir advocate for complainant in Cr. Bail Application
No.846/2018.
Mr. Abdullah Rajput, DPG.

ORDER

Salahuddin Panhwar, J: Through instant bail applications, applicant Syed Rizwan Ali Naqvi seeks post arrest bail whereas Muhammad Salman Qamar seeks pre-arrest bail in crime No.661/2017 u/s 108, 109, 506-B, 34 PPC, PS Shahrah-e-Faisal.

2. Relevant facts for disposal of both bail applications are that applicants are arraigned on the allegation that they have misappropriated an amount of Rs.22,50,000/- pertaining to Metropolitan School; it reveals that Syed Rizwan Naqvi was employee of that school and during audit that corruption was surfaced; whereas it is stated that applicant Syed Rizwan Naqvi was under the

influence of applicant Muhammad Salman hence both were in league, in this crime.

3. Learned counsel for applicants contend that this is a unique case wherein confession is recorded; admittedly brother of applicant was arrested and marriage of applicant's sister was already scheduled to be solemnized within 15 days hence on the pretext of release of one brother applicant was compelled to confess the crime; on such assurance for bail of applicant's brother no objection was extended by the complainant party and on second day confession of applicant was recorded. Except confession there is no iota of evidence against the applicant whereas role of the applicant Muhammad Salamn is that the latter was in his influence whereas such confession itself cannot be believed.

4. Learned counsel for complainant alongwith learned DPG contends that this is a case wherein huge amount has been misappropriated; simultaneously applicants issued threats to the complainant party; hence both are not entitled for bail.

5. Since prosecution's case is based on documents which eliminates possibilities of tampering with such **evidence** (documents) which, *otherwise*, is one of the exceptions whereby bail *even* in cases, not covered by Section 497(i) could be refused. The position, being so, advances the case of applicants towards *grant* of bail. Further, according to prosecution during audit they found misappropriation of Rs.22,50,000/- by applicant Rizwan Naqvi who not only admitted such misappropriation but also agreed to return the amount by

issuing cheque as even made confession. Admittedly, brother of applicant was released due to no objection of the complainant party hence plea of *coercion* , taken by applicant Rizwan Naqvi, in getting such confession, requires consideration thereby making his case as one of *further probe*.

6. Whereas allegation against applicant Salman Qamar is that he, being *rohani amil*, convinced applicant Rizwan to share 50% also needs to be proved particularly when applicant Rizwan himself has challenged confession whereby name of applicant Salman surfaced. The moment one *prima facie* succeeds in making out a case of *further inquiry* he (accused) becomes entitled for bail and in such like situation committing one to custody for his *ultimate* release for want of *mala fide* may well be ignored. Accordingly both applicants were admitted to pre arrest and post arrest bail by short order dated 14.09.2018 and these are the detail reasons.

IK

J U D G E