

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**Cr. Bail. Appln. No.S- 748 of 2020**

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|------|---------------------------------------|
| Date | Order with Signature of Hon'ble Judge |
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**For hearing of bail application**

1. For orders o MA No.7700/2020 (U/A)
2. For orders on office objection at flag 'A'
3. For orders on MA No.7701/2020 (Ex.A)
4. For hearing of bail application

**11.12.2020**

Mr. Yar Muhammad Jalbani Advocate along with Applicant

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**Aftab Ahmed Gorar, J:-** Through instant Criminal Bail Application, the applicant/accused Habibullah S/o Ali Muhammad Leghari, is seeking second time pre-arrest bail in case / crime arising out of FIR No.251 of 2019 registered at Police Station Daharki, District Ghotki for offence punishable under Sections 489-F PPC, as in the earlier round, the pre-arrest bail plea has been declined upto the Honourable Supreme Court of Pakistan.

2. The facts of the prosecution case are that on 09.11.2019 at 1530 hours, complainant Inder Lal lodged his FIR at Police Station, Daharki, stating therein that he is Regional Manager Dollar Seed Company Limited Registered having its office at Sadiqabad, whereas, the present applicant Habibullah Leghari being a Zamindar purchased 1000 bags wheat seed from his company and in presence of the witnesses namely Muhammad Aslam Shar and Ali Nawaz Mirani issued a cheque of Rs.2500000.00 (Twenty five lac) of Bank Al-Habib Branch Daharki of his Account # 1040-0081-001333-01-07 dated 01.10.2019, the said cheque on presentation was bounced by

the concerned bank due to lack of funds. Thereafter, he (complainant party) approached the applicant/accused and informed him regarding the dishonor of his cheque, who kept them on hopes and ultimately refused, hence such FIR was registered as stated above.

3. It is contended by learned counsel that the applicant/accused is innocent and has been falsely implicated by the complainant in the instant case; that the prosecution witnesses are close friends to each other and they are interested; that there is delay of more than one month in lodgment of the FIR for which no plausible explanation has been furnished; that the bail application of the applicant/accused was dismissed upto Honourable Supreme Court of Pakistan, thereafter he was arrested and produced before the trial Court; that the applicant/accused was admitted to post-arrest bail, whereas, the complainant challenged the bail grant order of the trial Court before the learned Sessions Judge, Ghotki, which was entrusted to learned 3<sup>rd</sup>. Additional Sessions Judge, Mirpur Mathelo, who after hearing the parties set-aside the impugned bail grant order of the applicant/accused, hence the applicant/accused is apprehending his arrest at the hands of police; that the alleged offence does not fall within the prohibitory clause of Sub-section (2) of Section 497 Cr.P.C. He lastly contended that the impugned order dated 26.10.2020 is liable to be set-aside and the applicant/accused may be granted pre-arrest bail.

4. I have heard the learned counsel for the applicant/accused and perused the material available on record. Admittedly, the applicant/accused was declined pre-arrest bail by the Court of learned 3<sup>rd</sup>

Additional Sessions Judge, Mirpur Mathelo vide order dated 26.11.2019 in Criminal Bail Application No.1350/2019 re- Habibullah vs The State. Thereafter the applicant/accused preferred Criminal Bail Application No.S-706/2019 seeking pre-arrest bail before this Court, whereas, in the first instance the interim pre-arrest bail was granted to him vide order dated 10.12.2019 which was subsequently recalled vide order dated 20.01.2020. The applicant/accused approached the Honourable Supreme Court of Pakistan by filing Criminal Petition No.87 of 2020 and vide order dated 03.02.2020 the applicant/accused was admitted to interim pre-arrest bail subject to deposit of one million, two hundred and fifty thousand rupees in the trial Court, the said order was not complied-with by the applicant/accused and choose to remain absent, ultimately his Criminal Petition No.87/2020 was dismissed and conditional order dated 03.02.2020 was recalled. The record further reveals that thereafter the applicant/accused did not surrender before the trial Court and remained fugitive from law, ultimately he was arrested by the police and produced before the trial Court / 1<sup>st</sup> Civil Judge and Judicial Magistrate (MCTC) Mirpur Mathelo for facing the trial.

5. The record further reveals that the applicant/accused applied by post-arrest bail u/s 497 Cr.P.C, which was allowed vide order dated 26.03.2020, which was challenged by the complainant by filing Bail Cancellation Application No.08/2020 before the Court of learned Sessions Judge, Ghotki, which was entrusted to the Court of learned 3<sup>rd</sup> Additional Sessions Judge, Mirpur Mathelo, who after hearing the learned counsel for

the parties allowed the same and set-aside the bail grant order of the applicant/accused vide order dated 26.10.2020, hence the applicant/accused has preferred the instant Criminal Bail Application under Section 498-A Cr.P.C seeking the relief, which has already been declined by this Court as well as upto the Honourable Supreme Court of Pakistan. In the circumstances, the relief for grant of pre-arrest bail has already been declined to the applicant/accused from the Court of Sessions Judge to the Honourable Supreme Court including this Court. Admittedly, the applicant/accused has not complied-with the conditional order of the Honourable Supreme Court of Pakistan vide dated 03.02.2020, and chose to remain absent, consequently the said order was recalled and his Criminal Petition was dismissed vide order dated 02.03.2020. No case for grant of pre-arrest bail is made out by the applicant/accused. Consequently, the instant Criminal Bail Application is dismissed along with listed applications. The applicant/accused Habibullah S/o Ali Muhammad Leghari, who is present in Court is taken into custody and remanded to Central Prison-I Sukkur with direction that he shall be produced before the trial Court / 1<sup>st</sup> Civil Judge and Judicial Magistrate (MCTC), Mirpur Mathelo on each and every date of hearing in the aforesaid crime. Copy of this order be sent to learned trial Court for information.

Judge