

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
Criminal Bail Application No.S-500 of 2022

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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05.09.2022

Syed Shahzad Ali Shah advocate for applicant along with applicant on ad-interim pre-arrest bail.

Mr. Fayaz Hussain Sabki, APG along with Agha Hussain, Inspector Anti-Corruption.

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**MUHAMMAD IQBAL KALHORO, J.-** Applicant, the Director General, Agriculture Engineering and Water Management Sindh, Hyderabad is alleged to have misappropriated an amount of Rs.13,35,00,000/- released by the Government of Sindh to the department against Subsidy Scheme in respect of 447 Tractors with active connivance of co-accused by managing fake and forged record / invoices of the Tractors under Subsidy Program which, although meant for poor farmers/growers, were sold out in open market and subsidy amount embezzled. FIR was lodged against applicant and other accused only after a proper inquiry was conducted, the report of which was approved by the Competent Authority i.e. Chief Secretary Sindh.

2. Learned defense counsel has submitted that there is no case against applicant; he was not the then Director General at relevant time and has produced a photostat copy of Corrigendum dated 30.08.2013, issued by Finance Department, Government of Sindh, in proof thereof. He has further submitted that co-accused Shehzad Riaz has been granted post arrest bail by this court and the applicant's case attracts rule of consistency.

3. On the other hand, learned Assistant PG has shown his inability to find any record against applicant which, however, is against the finding recorded by the IO in the interim Challan submitted in the court containing a detailed report of investigation and modus operandi applied by the accused in depriving the government of its amount.

4. All the grounds which learned counsel has emphasized here have already been looked into tentatively by the learned trial court, and yet it has found the applicant not entitled to extraordinary concession of pre-arrest bail. Rule of consistency impressed by learned defense counsel in the case is also not attracted, for the co-accused was granted post arrest bail mainly on the ground of double jeopardy and highhandedness without a reference to the merits of the case and the role played by the applicant. Even otherwise, the principles regulating pre-arrest bail and post arrest bail are quite different. In deciding pre-arrest bail application, the element of malafide on the part of complainant to implicate the accused falsely has to be weighed first against merits of the case. The case against applicant was registered only after a proper inquiry was conducted finding involvement of the applicant in the scam. Further, the witnesses in 161 CrPC statements appear to have supported the insinuations disclosed in FIR against applicant and other accused. Applicant and other accused instead of implementing the Scheme chose to act otherwise and deprived not only government of its amount but also farmers / growers of their right to have subsidized tractors. In the circumstances, no case for extraordinary concession of pre-arrest bail in favour of applicant is made out. Consequently, the bail application is dismissed and ad-interim pre-arrest bail earlier granted to him vide order dated 20.04.2022 is hereby recalled.

5. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE