

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-479 of 2022

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE</u>
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09.09.2022

Mr. Saad Salman Ghani, advocate for applicant who is absent and he seeks condonation of his absence.

Mr. Masood Rasool Babar Memon, advocate for complainant.

Mr. Fayaz Hussain Sabki, APG along with Inspector Zeeshan Haider Memon, Circle Officer ACE Jamshoro.

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MUHAMMAD IQBAL KALHORO, J.- Applicant, Ex-Accounts Officer in the Mehran University of Engineering and Technology, Jamshoro, was found involved in embezzlement by preparing fake and fabricated reimbursement bills against medical treatment of different employees. An enquiry was launched against him and other officials, which confirmed the charges against them. They were approached to make good of the loss to the University which they agreed and issued cheques in favour of the University. Applicant's cheques on presentation were dishonored and despite opportunity given to him failed to make good of the loss. Hence present FIR was registered against him.

2. His counsel has pleaded for confirmation of bail on the ground that against other employees similar charges were leveled but no action has been taken against them and applicant after registration of FIR has returned Rs.30,00,000/- to the University; the case has been challaned and he is no more required for further investigation. He in support of his arguments has relied upon the case of SHAHZAD RIAZ and others versus The STATE (2019 PCrLJ Note 8).

3. His arguments have been rebutted by learned Assistant PG and counsel for complainant who submit that still Rs.70,00,000/- are outstanding against applicant; in the inquiry he was found guilty and dismissed from service so also the other accused who however returned the amount to the University and therefore no further penal action was taken against them.

4. Initially, the case against applicant was registered in the ordinary jurisdiction and his application for pre-arrest bail bearing No.S-82/2021 was dismissed by this court vide order dated 01.11.2021. Later on, the matter was referred to the Anti-Corruption Police which submitted the Challan before the Anti-Corruption Court Hyderabad where the applicant repeated his bail application for the same relief, dismissed vide impugned order, hence, this bail application. FIR has been registered by an officer of the Mehran University of Engineering and Technology Jamshoro against the applicant. There is no element of malafide on his part to implicate the applicant falsely in this case against the charges of misappropriation which stood prima face proved against the applicant in the departmental enquiry. IO has also confirmed that still there is an outstanding amount of 7 Million against the applicant which he has failed to make good of and in investigation prima facie evidence has been collected against him.

5. In presence of prima facie evidence against applicant and his attempt to seek same relief already frustrated by this court, I do not find him entitled to the concession of extraordinary relief of pre-arrest bail, available to an accused who has been falsely implicated by the complainant. The case of the applicant is distinguishable as is clear from the foregoing discussion. Consequently, this bail application is dismissed and ad-interim pre-arrest bail earlier granted to the applicant vide orders dated 15.04.2022 & 29.04.2022 is hereby recalled.

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

JUDGE