ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 481 of 2018

Date

Order with signature of Judge

For hearing of bail application

14.12.2018

Mr. Maroof Hussain Hashmi, Advocate a/w applicant.

Ms. Seema Zaidi, DPG for the State.

-X-X-X-X-

Farid Ahmed lodged F.I.R. No. 243 of 2017 on 6-10-2017 under section 381 P.P.C at the Bilal Colony police station against the applicant Waseem Abbas. He stated that he is an employee of a business entity called Jazz Franchise and that the Waseem Abbas was employed as a Distributor Officer in the business in the year 2014. He was assigned the task of collecting money due to the Franchise from various shopkeepers. In 15-2-2017 Waseem collected Rs. 216,000 from the shopkeepers but did not deposit the said money with the Franchise and now Waseem has disappeared. Upon registration of the case against him Waseem approached the learned 2nd Additional Sessions Judge, Karachi Central for grant of pre-arrest bail but his application was dismissed on 24-3-2018.

I have heard the learned counsel for the applicant as well as the learned D.P.G. and have examined the record with their able assistance. The complainant did not effect an appearance despite notices. My observations are as follows.

There is no evidence that has been put on record to show that the complainant (who himself claims is an employee of Jazz Franchise) is indeed an employee of the said Franchise or that he has been authorized by the owner of the business to lodge the said F.I.R. or that a master servant relationship even exists between the two. It is not explained as to why it took nearly 8 months for the Franchise to lodge an F.I.R. though it is claimed that it knew that money had been embezzled by the applicant on 15-2-2017. In these circumstances the learned counsel's argument that there is a dispute over salary between the applicant and the complainant that is the motivation behind this false case cannot be conclusively ruled out at this stage. No evidence has been put before me to show (though it is claimed that there is) that the amount complained of was indeed owed to the Franchise by the shopkeepers. Of course a conclusive decision about this will be made by the learned trial court after evidence is led. The offence with which the applicant is charged falls within the non prohibitory clause of section 497 Cr.P.C.

Above are the reasons for the short order dated 6-11-2018 in terms of which the interim pre-arrest bail granted to the applicant on 30-3-2018 was confirmed on the same terms and conditions.

JUDGE