

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 1560 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application.

16.01.2019

Mr. Sarmad Hani, Advocate for applicant.
Mr. Nasrullah Korai, Advocate for complainant.
Mr. Siraj Ali, Addl.P.G. for the State.

=====

Omar Sial, J.: Muhammad Akram Faheem, the applicant, has sought post arrest bail in crime number 602 of 2018 registered under sections 406, 420, 468, 471, 506 and 34 P.P.C. at the Darakshan police station in Karachi. Earlier, his pre-arrest bail application was dismissed by the learned 8th Additional Sessions Judge, Karachi South on 15.11.2018.

2. The aforementioned F.I.R. in the case was filed by Waleed S/o Abdul Latif on 12.10.2018 at 1800 hours for an offence that he claimed ranged in duration for a period of two years i.e. 2015 to 2017. In the said F.I.R. he recorded that he had met the applicant in the year 2015 and entered into a partnership agreement in terms of which the complainant was to render services to the applicant for a contract which the applicant had entered into with PARCO. The applicant was so impressed with the work of the complainant that he involved him with certain other projects as well. It was the complainant's grievance that the applicant did not fulfill his contractual obligations and an amount of Rs. 134,000,000 due to the complainant on various accounts were not given to him and when he asked the applicant for the money the applicant threatened him. Apart from the applicant, the complainant nominated five other colleagues of the applicant in the F.I.R.

3. I have heard the learned counsel for the applicant, the learned Addl.P.G and the learned counsel for the complainant, who assisted the learned Addl.P.G. I have also examined the record available with the assistance of the learned counsel. My observations are as follows.

4. The learned counsel for the complainant was repeatedly asked to identify the documents which according to the complainant are forged or that the applicant should have known were forged but he used as genuine, however, learned counsel was unable to identify any such document. He did argue however that a cheque (number 00004084

dated 9-7-2018) issued by Pakistan Petroleum Limited to the company of the applicant, that he had put on record, though not forged, should have been issued to the complainant instead of the applicant. He also pointed towards a Performance Guarantee (no. MD 1716400007 dated 13-6-2017) issued by Allied Bank Limited in favour of Pakistan Petroleum Limited, had been cancelled by the company of the applicant, to the detriment of the complainant. The facts narrated and documents produced in court, prima facie, do not reveal that any document has been forged by the applicant. It is only after evidence is led that the learned trial court will be in a position to determine this issue conclusively.

5. Similarly, the learned counsel for the complainant was asked to prima facie show whether the ingredients of section 420 P.P.C. and 405 were attracted in the present case. But apart from a general argument that the applicant has acted in breach of the contractual terms agreed to between the applicant and the complainant, he could not satisfy me that on the face of it, an offence had been committed that could attract a criminal liability. Once again, it is only after evidence is led at trial that the learned trial court will be in a position to conclusively determine the same.

6. The delay of nearly three years on the part of the complainant to lodge an F.I.R. for being allegedly cheated needs to be explained at trial, as no reason for the delay has been provided. The fact that even though the complainant claims that he has been cheated of an amount of Rs. 134 million by the applicant, yet his admitting that he has taken no step to file a suit for recovery, prima facie does not reflect well on the complainant's bonafide and indicates that an attempt has been made to invoke criminal proceedings as an arm twisting mechanism.

7. All the offences with which the applicant is charged fall within the non-prohibitory clause of section 497 Cr.P.C. Investigation is complete. No purpose will be served in detaining the applicant behind bars.

8. Above are the reasons for the short order dated 7.12.2018 which was as follows:

“For the reasons to be recorded later on, applicant is granted bail in the sum of Rs.100,000 and P.R. bond in the like amount to the satisfaction of the trial court.”

JUDGE