

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-225 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case.

03.04.2023

Mr. Jahanzeb Ali Dahri, advocate for the applicants.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, Riaz Ahmed and Naseer Ali seek post-arrest bail in Crime No.21/2023, registered at Police Station Pinyari, District Hyderabad for the offence under sections 468, 471, 473, 420 PPC. Earlier the bail plea of the applicants/accused was declined by the learned Vth Additional Sessions Judge, Hyderabad vide order dated 02.03.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicants/accused has mainly contended that the applicants/accused are innocent and have falsely been implicated in this case; that applicants/accused have no concern with the alleged offence; that there is no written/oral complaint from any government department against the applicants/accused for usage of any fake pension book from which it shows that the applicants/accused are involved in the instant case; that there was prior information about the incident but he did not try to associate any private witness from the locality whereas the place of incident is thickly populated area; that in fact, no such incident had taken place; that basic conception bail is that no innocent person's liberty could be curtailed until and unless proves. Learned counsel has further contended that case has been challaned and the applicants/accused are not required for further investigation. He has also contended that the offences with which the applicants/accused are booked do not under the prohibitory clause of section 497 (1) Cr.P.C. He prayed for grant of bail to the applicants/accused.

4. On the other hand, A.P.G. Sindh has vehemently opposed the bail application on the ground that all the accused have jointly committed the offence and there is no *mala fide* or ill will on the part of complainant.

5. Heard and perused the record.

6. Perusal of record reflects that the names of the applicants/accused find place in the FIR with specific role. The police has recovered a black color bag wherein found 262 pension books of different people and another blue color bag in which also found 36 seals in the name of Additional District Accounts Officer-III, ADAO Hyderabad including 110 different bank cheques, three stamp pad, pension books, CNIC cards. The recovery of above articles from the possession of accused is sufficient to *prima facie* form opinion that they are fully involved in the commission of offence with which they are charged especially when no ill will or *mala fide* is alleged against the complainant. The possession of pension books and cheques in huge quantity with the accused and their recovery from the place i.e. Bank of Pinyari Canal near village Aadho Khan Jatoi, which is situated too away from the District Accounts Office, Hyderabad, suggest that they are involved in preparation of fake pension books, cheating and misuse of purported official Seals; and, certainly on the basis of such forged documents, by knowing them to be forged documents but the applicants/accused intended to use them fraudulently as genuine including making instruments i.e. seals. Further, the case has been challaned and the trial is in progress, therefore, the Courts should not grant or cancel bail when the trial is in progress. In this regard, I am also fortified with the decision of the Hon'ble Supreme Court in a case titled as 'Rehmat Ullah v. State' [2011 SCMR 1332].

7. Although the offences with which the applicants/accused are booked do not fall within the prohibitory clause of section 497, Cr.P.C but this principle is not absolute, rather it depends upon the facts and circumstances of each case. The accused are involved in preparation of the forged documents i.e. pension books and the same were intended to use as genuine and if they could have succeeded, obviously, number of pensioners could have lost their retiring benefits of entire service or some part thereof, due to blackmailing on the basis of such forged documents, hence, it casts a heavy duty upon the courts to safeguard the rights of peoples within the limits of law by discouraging such type of acts. There is sufficient documentary material available on the record to establish that the case of the applicants/accused does not fall within the purview of section 497(2), Cr.P.C. entitling for further inquiry into their guilt. Consequently, instant criminal bail application is **dismissed**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE