

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-354 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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28.04.2023

For orders on office objection.
For hearing of main case.

Mr. Javed Chaudhry, advocate for the applicant along with applicant, who is present on interim pre-arrest bail.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh along with I.O Ghulam Murtaza Pathan of PS City Umerkot.

Complainant Shahid Ali present in person.

Amjad Ali Sahito, J:- Through instant bail application, the applicant/accused namely, Syed Umair Shah seeks pre-arrest bail in Crime No.05/2023, registered at Police Station Umerkot City for the offence under sections 406, 408, 420 PPC. Earlier the bail plea of the applicant/accused was declined by the learned Additional Sessions Judge-II, Umerkot vide order dated 01.03.2023.

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 applicant has mainly argued that the applicant/accused is innocent and has falsely been implicated in this case, in fact, he has not committed any cheating and fraud with the complainant; that with regard to implication of the applicant/accused as to whether he has embezzled any amount of courier company known as TCS is yet to be determined at the trial after recording prosecution evidence. Lastly, learned counsel prayed for confirmation of interim pre-arrest bail to the applicant/accused.

4. On the other hand, learned A.P.G. Sindh has vehemently opposed the bail application

5. Heard and perused the record.

6. Admittedly the name of the applicant appears in the FIR with specific role. The case of prosecution is that the complainant along with Operational Manager and others visited the TCS office at Umerkot and while checking the record of the month of November 2022, they found receipt of

public and receipt of branch for an amount of Rs.910,753.00 [Rupees nine lacs, ten thousand, seven hundred and fifty three only], but the applicant/accused did not submit the account of TCS and committed fraud, who also stated that mistakenly he did not submit and is ready to pay the same. However, subsequently, the applicant/accused left the Branch without any intimation. The conduct of applicant/accused is that he committed offence for criminal breach of trust and fraud by dishonestly misappropriating the huge amount of TCS. Further, the impugned order shows that the applicant/accused himself has admitted that he has not joined the investigation; therefore, by such conduct he is not entitled for concession of bail. The principles of grant of pre-arrest bail and post-arrest bail are totally different. In the matters of pre-arrest bail, the Courts are supposed to examine as to whether the accused has proved *mala fide* on the part of complainant or prosecution or his false implication in the case, which is basic ingredient for grant of pre-arrest bail. In the instant case, learned counsel for the applicant has failed to show any *mala fide* on the part of complainant. No ill will or enmity has been pleaded by the applicant/accused. At bail stage, only tentative assessment is to be made. Prosecution has, *prima facie*, furnished sufficient material to connect the applicant with the commission of offence and PWs have supported the prosecution version. In such circumstances, learned counsel for the applicant/accused has failed to make out the case for grant of bail to the applicant/accused. Accordingly, instant pre-arrest bail application is **dismissed** and the interim pre-arrest already granted to the applicant/accused by this Court vide order dated 14.04.2023 is hereby recalled.

7. 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 applicant on merits.

JUDGE