

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-292 and 293 of 2023

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE</u>
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28.04.2023

Mr. Nazar Muhammad Parhyar advocate for applicant along with applicant on ad-interim pre-arrest bail.

Mr. Muhammad Yousuf Laghari advocate for complainant.

Ms. Sana Memon, Assistant Prosecutor General along with ASI Islam Khan Pathan IO of Crime No.32/2023 and ASI Muzaffar Hussain Abro IO of Crime No.71/2023 of PS Qasimabad.

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MUHAMMAD IQBAL KALHORO, J.- Applicant, working as an agent of the complainant in his project Neron Kot Qasimabad, is alleged to have sold fake files of the plots, etc to his clients and committed theft of Rs.25,00,000/- (Rupees twenty five lacs) from his office regarding which an FIR bearing Crime No.343/2023 at PS Qasimabad U/s 380, 420, 468 PPC was registered. Later on, applicant approached the complainant and gave him two cheques: Rs.250,000/- and Rs.300,000/- respectively which on presentation in the bank were dishonored. Complainant approached the applicant for return of amount but in vain and hence he lodged two separate FIRs bearing Crime No.32/2023 and Crime No.71/2023 at PS Qasimabad against applicant.

2. Learned counsel in defense has argued that the story narrated in FIRs is improbable; applicant had been working as an employee of the complainant and received salary; in fact applicant had obtained loan from the complainant which he has already repaid as is reflected from the bank statement of his account; complainant himself is a cheater and has accumulated wealth within a short span of time; that these are false FIRs, which have been malafidely registered against applicant. In support of his arguments, he has relied upon 2022 MLD 1444, 2021 YLR 2189, 2021 MLD 997, 2020 MLD 839, 2013 SCMR 51, 2011 Lahore 169, 2009 YLR 2136 and 2006 YLR 406.

3. His arguments have been rebutted by learned counsel for complainant who has relied upon 2023 YLR Note 33, 2023 SCMR 1, 2023 YLR Note 5, 2022 MLD 1065, 2022 MLD 1004, 2019

PCrLJ 1759, 2019 YLR 1490, 2019 SCMR 1129 and 2018 MLD 1521.

4. Learned Assistant PG has also opposed concession of pre-arrest bail to the applicant.

5. Investigating Officers of both the cases are present and submit that no proof was submitted by the applicant at the time of investigation of returning amount to the complainant and had simply informed them of such fact verbally.

6. I have considered submissions of parties and perused material available on record including the case law relied at bar. There is prima facie evidence against the applicant in the shape of dishonored cheques. Applicant's counsel has admitted that he had obtained loan from complainant and in repayment of loan the cheques were issued by him. His plea that he has returned the loan amount is not borne out of record as is confirmed by the Investigating Officers of both the cases present in court. Even in these bail applications no documentary proof has been filed by the applicant of returning the amount. Today, learned counsel while making arguments has shown some documents with the claim that loan has been returned to the complainant. But suffice to say that at this stage these documents cannot be appreciated as they were neither presented to the Investigating Officers in investigation nor even before the forums below where applicant had applied for pre-arrest bail.

7. It may be stated that concession of pre-arrest bail is extraordinary in nature which can be extended to a person when it is apparent that he has been falsely implicated in a non-bailable offence in which his arrest is otherwise required. In this case no such situation is in existence. This being the position, I do not find applicant entitled to the relief prayed for by him and dismiss these applications. Applicant's ad-interim pre-arrest bail granted to him in both the applications vide order dated 03.04.2023 is hereby recalled.

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

JUDGE