

IN THE HIGH COURT OF SINDH AT KARACHI**Crl. Bail Application No. 1841 of 2023**

Applicant : Muhammad Arif
through Mr. Ghulam Mustafa, Advocate
along with applicant

Respondent : The State
through Mr. Muhammad Iqbal Awan, Addl.P.G.

Complainant : Muhammad Ashraf Ali
through Mr. Arshad Ali, associate of Mr. Sikandar
Ali Mangi, Advocate a/w complainant

Date of hearing : 27th November, 2023

ORDER

OMAR SIAL, J.: Mohammad Arif has sought pre-arrest bail in crime number 619 of 2022, registered under sections 406, 420, 506 and 34 P.P.C. at the Sukhan police station. His earlier bail plea was dismissed on 09.08.2023 by the learned 5th Additional Sessions Judge, Malir Karachi.

2. The F.I.R. mentioned above was registered on 20.11.2022 on the information given by Mohammad Ashraf Ali. Ali reported that the applicant was working for him at his cattle farm and that he would buy and sell cattle for him. For the animals the applicant purchased, payment was made to him by the complainant through cash and, in some instances, through direct deposits into his account. The applicant allegedly deprived the complainant of Rs. 1.8 million in cash and Rs. 3.8 million in the shape of animals.

3. I have heard the learned counsel for the applicant, the complainant, and the learned Additional Prosecutor General. My observations and findings are as follows.

4. An offence under section 420 P.P.C. is a bailable one. An offence under section 406 P.P.C. is not bailable, but the punishment falls within the non-prohibitory clause of section 497 Cr.P.C. The learned counsel for the applicant admits that four receipts show deposits made by the complainant into the applicant's account; however, he argues that this was money given to some other arrangement. He has struggled to show what that account was.

5. I was inclined to grant the applicant bail as the punishment fell within the non-prohibitory clause of section 497 Cr.P.C.; however, that inclination disappeared after the learned Additional Prosecutor General put the applicant's crime record on record. The record prima facie shows that he has been involved in seven cases in Sahiwal ranging from robbery, armed robbery, assault, forgery, and cheating. The learned counsel has also failed to point out any malafide on the part of the police or the complainant to implicate the applicant falsely. Pre-arrest bail is a concession primarily to prevent a person from the humiliation of arrest and custody. Keeping the applicant's past crime record in view, he may not need the concession. His past crime record also makes one sceptical that he will not tamper with the evidence or coerce and intimidate the complainant. His case falls within the exceptions enunciated in Tariq Bashir and 5 others vs The State (PLD 1995 SC 34)

6. Given the above, ends of justice will have been met if the applicant first surrenders and then seeks post-arrest bail, if so advised. The investigating officer shall thoroughly investigate the applicant and confirm whether the applicant is an absconder in any of the cases filed against him in Sahiwal.

7. Bail application is dismissed.

JUDGE