

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI
Cr. B.A. No. 998 of 2023

Date	Order with signature of Judge
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For hearing of bail application.

05.07.2023

Mr. Qamaruddin Ujjan, Advocate for the applicant/accused.

Mr. Nasir Ahmed, Advocate for complainant.

Ms. Rubina Qadir, Addl. P.G.

1. Applicant Muhammad Irfan son of Mushtaq Ahmed is seeking bail after arrest in FIR No. 27/2023 lodged under Section 406, 420 PPC at P.S. City Courts, Karachi.
2. The allegation against the applicant/accused is that he cheated the complainant and did not pay any single penny after selling out the plot which was mutually agreed between the complainant and applicant/accused that they would distribute the profit from the sale consideration.
3. Learned counsel for the applicant/accused premised his case on the argument that from the contents of the FIR it appears that the dispute between the complainant and the applicant/accused is purely of civil nature, which was given a colour of criminal proceedings, therefore, the case requires further probe hence applicant/accused be enlarged on bail.
4. On the other hand, learned Addl. P.G. formally opposed for grant of bail, however, learned counsel for the complainant supported the impugned order whereby the bail plea of the applicant/accused was declined by the learned trial Court.

5. I have heard the submissions of learned counsel for the parties as well as learned APG and scanned the available material. It unfurls from the contents of FIR that an agreement was entered into between the complainant and applicant/accused which hasn't been introduced on record. Furthermore, from the entire scenario, it appears that the dispute between the parties is purely of civil nature, which was given a colour of criminal proceedings. Offences with which applicant/accused has been charged do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C and that in these circumstances releasing the accused on bail is a rule and refusal is an exception.

6. I have cautiously scanned and ruminated the material placed on record and reached to a tentative assessment that the case of the prosecution can only be resolved and determined by the trial court after full-fledged trial of the case but keeping in view the present set of circumstances, the case of the applicant/accused requires further inquiry.

7. As a result therefore, this bail application is allowed. Applicant Muhammad Irfan is granted bail subject to furnishing solvent surety in the sum of Rs.100,000/- (one hundred thousand) with P.R bond in the like amount to the satisfaction of Nazir of learned trial Court.

8. Before parting, I would like to further observe that if the applicant after getting bail fails to appear before the trial Court and the trial Court is satisfied that the applicant has misused the concession of bail and became absconder then the trial Court is fully authorised to take every action against the applicant and his surety including cancellation of the bail without making a reference to this Court.

JUDGE

Aadil Arab