

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1175 of 2023

Applicant : Ahmed Faraz S/o Mujeeb Ahmed
Through Mr. Salman Ahmed, Advocate

Respondent : The State
Through Mr. Muhammad Ahmed,
Assistant Attorney General a/w
Inspector Muhammad Sohail, FIA CCC,
Karachi

Date of hearing : 15.08.2023

Date of order : 15.08.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.07/2023 registered under Section 409, 420, 109, 468, 471, 34 PPC r/w 5(2) PCA, 1947 at PS FIA CCC, Karachi, after his bail plea has been declined by Judge, Special Court (Central) II, Karachi vide order 30.05.2023.

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

3. Per learned counsel, applicant/accused is innocent and has falsely been implicated in this case; that previously one FIR being Crime No.6/2023 was registered against the present applicant, but he was granted pre-arrest bail which was subsequently confirmed; that the applicant is not involved in the instant case, in fact, someone else has committed the offence; that the applicant has already resigned from the job. He lastly prays for confirmation of bail to the applicant/accused.

4. On the other hand, learned Assistant Attorney General duly assisted by the I.O. states that previously applicant was also involved in similar case as such he is habitual offender and is not entitled for concession of bail.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. Perusal of record shows that USC Management has reported that an amount of Rs.24,406,743/- was embezzled/misappropriated at US Pak Secretariat and US Frere Road, Karachi as such inquiry was conducted wherein accused Munib and Ahmad Faraz, present applicant, were found involved in this case. Further, Special Audit was conducted by the Audit team wherein it was also proved that the applicant and co-accused have involved in this case and net shortage of the period from 26.12.2011 to 05.11.2012 was Rs.12,64,350/-. The co-accused Munib Arif paid amount of Rs.212,891/- whereas the applicant failed to pay the outstanding amount as such he is involved in embezzlement/misappropriation of Saudabad store stated above. Further, the applicant was also involved in FIR No.6/2023, as such, prima facie he is habitual offender. The ocular evidence finds support from documentary as well as oral evidence. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of

‘Rana Abdul Khaliq v. The STATE and others’ [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 02.06.2023 is hereby recalled.

9. 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/accused on merits.

JUDGE

Kamran/PA