

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA**

**Cr.B.A.No.-S-520 of 2016**

**25.11.2016.**

Mr. Zahid Hussain Chandio Advocate for the applicants.  
Mr. Mazhar Ali Bhutto Advocate for complainant.  
Syed Sardar Shah Rizvi, APG.

**ORDER.**

By means of this application, applicants Sikandar Ali and Imdad Ali are seeking bail in a case registered under sections 5(2) Act: II of 1947 bearing Crime No.08/2016<sup>M.</sup> at Police Station ACE, Larkana.

Complainant in the F.I.R claims that entries in respect of Survey Nos. 1214/1,1284,1285 and 793 deh Badeh taluka Dokri measuring 8-36 were kept on his father's name in the Revenue record but due to his absence from the locality for some time the same were removed by Revenue officials. Therefore, he filed a civil suit in the court of 4<sup>th</sup> Senior Civil Judge, Larkana, who called a report from the Mukhtiarkar concerned regarding revenue record of above survey numbers and when the complainant approached applicant No.1 (Sikandar Ali) Clerk in the Mukhtiarkar office, he demanded rupees one lack from him for furnishing a favourable report, but subsequently he agreed to receive Rs.50,000/-. The complainant reported this matter with Police Station ACE Larkana and resultantly the F.I.R was registered and the trap-raid was arranged in presence of a Magistrate. Subsequently the raid was conducted on the same day, after the Rs.40,000/- were given to applicant Sikander by the complainant, during which the tainted money was recovered from applicant No.2 (Imdad Ali) who is also clerk in the said office. According to statement of the complainant, applicant No.1 after receiving the tainted money had handed over the same to applicant No.2. Hence, both the applicants were arrested and subsequently after due investigation challaned in the court.


Counsel for the applicant has argued that applicants have been falsely implicated; that due procedure stipulated in the anti-corruption laws has not been followed; that the F.I.R was registered before the raid; that since the challan has been submitted, the applicants are no more required for further investigation; that the offence does not fall within prohibitory clause of



section 497(i) Cr.PC. Learned counsel to support his arguments has relied upon the case laws reported in 2013 P Cr.LJ 1051 and 2016 P Cr.LJ 1151 and one un-reported order dated 17.10.2014 of this Court passed in Crl. Bail Application No.S-371 of 2014.

On the other hand learned counsel for the complainant has opposed grant of bail to the applicants, whereas learned APG has strongly opposed case of applicant No.1 (Sikander Ali), however, in respect of case of applicant No.2, he concedes that his case requires further inquiry.

I have considered the submissions and perused the material available on record including the case laws cited at the bar. A perusal of F.I.R indicates that applicant Sikandar Ali is specifically nominated with the role of demanding gratification from the complainant and in pursuance of which he allegedly received the tainted money from him in presence of mashirs. The said money was thereafter recovered during the trap-proceedings. The witnesses have supported the prosecution case in their statements and the report of Magistrate in whose presence the raid was conducted is also corroborative to the prosecution story. There is sufficient material against applicant No.1 (Sikander Ali) therefore, as far as his case is concerned I am of the view that he has not been able to make out a case for bail. Also because merely an offence does not fall within prohibitory clause of section 497 Cr. P.C would not mean that bail is right of the accused. However, I agree with the learned APG that case of applicant No.2 requires further inquiry for the reasons that the complainant's own statement shows that money was received by applicant No.1 and was then handed over to applicant No.2. The question whether applicant No.2 was privy to the offence or not requires further inquiry. Resultantly while dismissing the bail of applicant No.1, I grant bail to applicant No.2 subject to his furnishing a solvent surety of Rs.50,000/- (Rupees Fifty thousand) and PR bonds in the same amount to be executed before the trial court. And at the same, the trial court is directed to expedite the matter and conclude it preferably within a period of three months, after which applicant No.1, would be at liberty to repeat his bail application before the trial Court.

  
JUDGE 25-11-2016