

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Bail Application No.S-910 of 2017

Date of hearing: 10.11.2017.
Date of Decision: 10.11.2017.
Applicant: Through Mr. Ishrat Ali Lohar, advocate.
Respondent: The State through Syed Meeral Shah,
Additional Prosecutor General, Sindh.

ORDER

MUHAMMAD IQBAL KALHORO, J: - Through the instant bail application, the applicant is seeking post arrest bail in crime No.98/2017 of PS A-Section Tando Allahyar, registered under sections 381 & 34 PPC.

2. Brief facts of the prosecution case are that the complainant Aun Ali is a Manager at First Micro Finance Bank, Tando Allahyar and has lodged present FIR on 05.09.2017 at 2200 hours. In the FIR, he has alleged theft of 86 gold bags and cash of Rs.17,69,453.00 from the lockers of the Bank against the applicant and co-accused Ghulam Abbas. The applicant is alleged to be Security Guard posted over the said Bank whereas, co-accused Ghulam Abbas is stated to be Cashier in the said Bank. As per story of the FIR on the night of incident when the applicant was performing his duty as Security Guard, Ghulam Abbas Cashier came with his wife at about 2300 hours in the night and remained in the Bank for some time. On the next day when the complainant came, he found the lockers open and the above stated property missing. On inquiry, the applicant initially avoided disclosing the facts but subsequently, he admitted arrival of co-accused Ghulam Abbas along with his wife in the Bank. In the CCTV camera co-accused Ghulam Abbas was seen intentionally locking the locker of the Bank wrongly which facilitated him to commit theft from the Bank.

3. Learned counsel has contended that the applicant is innocent and has been falsely implicated in this case; that no role is assigned to the applicant except that he allowed the co-accused to enter the Bank in the night; that nothing has been recovered from the applicant and the alleged stolen property was recovered from co-accused Ghulam Abbas; that there is delay

in registration of the FIR which has not been explained; that only the allegation of facilitating the co-accused has been leveled against the applicant which requires further inquiry. Learned counsel for the applicant has relied upon the case reported in 2014 MLD 930 in support of his arguments.

4. On the other hand, learned Additional Prosecutor General has opposed grant of bail to the applicant on the ground that his name is mentioned in the FIR and during his duty as Security Guard on the subject Bank the theft was committed; that although the recovery of gold bags has been effected from the co-accused Ghulam Abbas but still the cash of Rs.17,69,453.00 is missing. He has relied upon the case reported in 2013 SCMR 385 in support of his arguments.

5. I have considered the submissions of parties and perused the material available on record. From the FIR, it is evident that the applicant, who was performing his duty as Security Guard, allowed the co-accused to enter the Bank without permission during odd hours of night, which led to the theft of not only 86 gold bags but the cash of Rs.17,69,453.00. Although, the recovery of gold bags has been effected from the co-accused but still there is no account of Rs.17,69,453.00, which were stolen on the same night. In the circumstances, the involvement of the applicant and his active participation being the accomplice cannot be ruled out. It has been informed that challan has been submitted and the case is ripe for the trial. Under these facts and circumstances, while dismissing this bail application, I direct the trial to expedite the trial and examine the material witnesses within three months hereof whereafter the applicant would be at liberty to file a fresh bail application before the trial Court.

JUDGE

Dated: 10.11.2017.