

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Application No.1076 of 2022

Date

Order with signature of Judges

For hearing of bail application.

14.09.2022.

Mr. Waqar Ahmed, Advocate for the Applicant.

Mr. S. Noman Zahid Ali, Advocate for the Complainant.

Ms. Wajeeha Mehdi, Assistant Attorney General.

Mohammad Karim Khan Agha, J. The applicant has applied for post arrest bail in Case No.47 of 2021 under FIR No.21 of 2021 of PS FIA, CBC, Karachi u/s 409/ 419/ 420/ 468/ 471/ 109/34 PPC. Initially he approached the learned Special Court (Offences in Banks) Sindh at Karachi for post arrest bail, however, his application was declined vide order dated 28.01.2022.

2. Brief facts of the case are that the applicant was the then manager of Askari Bank Limited and during inquiry by the FIA upon the complaint of Askari Bank Limited it was found that the applicant had carried out parallel banking by withdrawing money from 11 particular accounts holders and falsifying the second signatory of TDR and hence he was charged with the above offences.

3. Final challan has now been submitted and the charge has been framed to which the applicant has pleaded not guilty.

4. Learned counsel for the applicant has submitted that there has been no fraud on the part of the applicant as he has paid back all the money which was allegedly misappropriated by him to the persons he took it from and as such his actions do not amount to any offence for which he has been charged and as such he should be granted bail.

5. On the other hand learned Assistant Attorney General and learned counsel for the complainant have argued that the material on record and conduct of the accused shows a clear violation of Section 409 PPC and as such the applicant is not entitled for concession of bail and his application be dismissed.

6. We have heard the parties and perused the record.

7. By the applicant's own admission it appears that he was carrying out parallel banking business and the fact that he was repaying the money does not necessarily mean that he has not committed any offence so charged against him. He appears rather to be giving justification for his actions. Even in his statement before the Enquiry Officer he had admitted that:

"2. Yes I obtained funds of above listed eleven (11) customers from time to time for personal used not for business purpose because during those days I was mentally disturbed due to loss of my father and my younger sister against cancer diseased that's why I took amount from those customers and some of them returned back.

3. It is further submitted that according to the charge sheet letter No.HR/DAC326/01/2020/01-9015 yes this is the violation the AKBL's "Code of Ethics and Conduct" / HR policies and service rules which I have misconducting the HR policies and services rules."

8. Based on our tentative assessment of the material available on record we are of the view that there is sufficient material to connect the applicant with the aforesaid offences so charged and as such his application for post arrest bail is dismissed. It goes without saying that this is only a tentative assessment based on available record and shall have no bearing on the trial which shall be decided on merits based on the evidence produced before the trial Court.

9. Trial Court is directed to complete the trial within 03 months of the date of this order. Copy of this order shall be sent to learned Judge Special Court (Offences in Banks) Sindh at Karachi for compliance.

10. The Criminal Bail Application is stands disposed of in the above terms.

JUDGE

JUDGE