

**ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

Criminal Bail Application No.S-1055 of 2017

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For orders on M.A 411/18

26.01.2018.

Mr. Shoukat Ali Pathan, Advocate, alongwith applicant.

Shahzado Salim Nahyoon, D.P.G for the State.

None present for complainant.

ABDUL MAALIK GADDI, J: In view of the urgency shown, urgent application is allowed and this matter is taken up for hearing.

Applicant is present on interim pre-arrest bail granted to him by this Court vide order dated 29.11.2017. This bail application is coming up for confirmation or otherwise.

Brief facts of the case are that on 03.10.2017 the complainant Punhal lodged F.I.R. alleging therein that the applicant had sold him agricultural land through an agreement but later on present applicant started dispute over the land by asking him to return the land paid amount would be returned in installments. Towards the repayment of the said amount applicant issued the complainant a cheque amounting to Rs.2,25,000/- of NBP Mehar Branch to the complainant, which on presentation for encashment returned dishonored, hence F.I.R. was lodged.

Learned Counsel for the applicant submits that the applicant is innocent and has falsely been involved in this case by the complainant; that there is delay of two months in lodging of the F.I.R., which has not been explained by the complainant; that during investigation all the accused including present applicant were found innocent and their names were placed in Column-2 of the challan but learned Magistrate did not agree with the report submitted by the I.O of the case. According to the Counsel for the applicant, it is yet to be considered at the time of trial whether the view taken by the I.O of the case or the view taken by the learned Magistrate joining the accused in this case is correct and at present the case requires further probe. He further submits that the challan against the applicant has already been submitted and applicant is facing trial before the trial court without any substantial progress. He prays that interim bail already granted to the applicant may be confirmed.

Learned Deputy Prosecutor General Sindh has recorded his no objection if the interim pre-arrest bail already granted to the applicant is confirmed on the same terms and conditions.

I have heard the learned counsel for the applicant as well as learned D.P.G and perused the record so made available before me.

It is an admitted fact that during investigation the present applicant was found innocent but the factum of innocence was disputed by the learned Magistrate and joined the applicant in the case as accused. It appears from the record that it is the case of two versions one submitted by the I.O finding the accused as innocent and another by the concerned Magistrate joining them as accused in the case and it is yet to be considered which version is correct till then the case of the applicant requires further probe. In this matter complainant has already sworn his affidavit of no objection, which is on record in which he has stated that he has no objection if the applicant is granted bail. It is an admitted fact that the case has been challaned and applicant is no more required for further investigation. The punishment of the offence under which present accused is facing trial does not fall within the prohibitory clause of section 497, Cr.P.C. In such like cases grant of bail is rule and refusal is an exception. No exceptional ground appears to withhold bail of the applicant.

Under the circumstances, the applicant has made out a case for confirmation of bail. I, therefore, confirm the interim pre-arrest bail already granted to the applicant by this Court on 29.11.2017 on the same terms and conditions with direction to the applicant to appear before the Trial Court to face the trial.

Before parting with the order I would like to make it clear that observations, if any, made in this order are tentative in nature and shall not affect the merits of the case.

Bail application disposed of.

JUDGE