

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Cr.Bail Appln:No.S- 313 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

03-10-2017

Applicants are present on interim bail.

M/s Agha Ghulam Abbas & Agha Waqar Ahmed, advocates for applicant.

Mr. Shahid Ahmed Shaikh, D.P.G.

None present for complainant.

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ABDUL MAALIK GADDI, J- Through instant bail application applicants seek pre-arrest bail in Crime No.30 of 2017 under Section 420, 489-F, 34 PPC, registered at police station Cantonment Hyderabad. Earlier their bail application has been dismissed by learned IIIrd Additional Sessions Judge, Hyderabad vide order dated 20.04.2017. Today this bail application is fixed for confirmation or otherwise.

2. Brief facts of the case are that complainant Mukhtiar Ali lodged FIR at PS Cantonment on 30.03.2017 regarding the incident allegedly taken place on 13.04.2016, alleging therein that in the year 2016 he had sold out six buffaloes amounting of Rs.7,80,000/to Moula Bux Aresar and his brother Suleman Aresar, out of which they had paid Rs.1,45,000/-in cash and issued two cheques of Rs.1,00,000/- bearing No.66609791 dated 22.03.2016 and No.66609792 dated 25.03.2016 by Moula Bux Aresar of Meezan Bank Cattle Landhi Branch Karachi. Thereafter, complainant deposited the same cheque in his account, but the same cheques were dishnoured due to insufficient amount. Hence, the present FIR was lodged against the accused persons.

3. It is stated by learned counsel for the applicants that the case against applicants is false and has been registered due to enmity; that applicants have already paid the amount but complainant did not return cheques and by misusing the cheque lodged false FIR; that complainant committed fraud and managed false FIR in order

to blackmail applicants; that there is delay for about one year in lodging FIR, without any plausible explanation; that the alleged sections applied in FIR do not fall within prohibitory clause of section 497 Cr.P.C; that there is no material connecting the applicants with the commission of crime. He lastly prayed for confirmation of bail.

4. Conversely, D.P.G opposed this bail application on the ground that name of the applicants are appearing in the FIR with specific role played by them. According to him the applicants have issued cheque to the complainant party and the said cheques were dishonoured on their presentation before the concerned bank.

5. Arguments heard and record perused.

6. It is an admitted fact that there was a business transaction in between the parties and this fact is apparent, through the contents of the FIR. Further, the FIR is delayed for a long period of about one year, to which no satisfactory explanation has been furnished, therefore, false implication of the applicants in this case cannot be ruled out and requires probe. The offence applied in the FIR does not fall within the ambit of prohibitory clause of section 497 Cr.P.C and in such like cases the grant of bail is a rule and refusal is an exception. Moreover, the case of the prosecution rests upon the alleged bounced cheques, hence all the documentary evidence is available with the prosecution, therefore, no question does arise for tempering with the evidence at the hands of applicants. Notwithstanding, in this matter the investigation has been completed and challan against applicants/accused has already been submitted, hence, the applicants/accused are no more required for further investigation. No exceptional circumstances has been pointed out by D.P.G in this case to withhold bail to applicants. I, therefore, in view of the above allow this bail application and confirmed the interim pre-arrest bail in favour of applicants passed earlier on same terms and conditions with directions to the applicants/accused to appear before the trial court to face trial.

7. Needless to mention here that the observations made hereinabove are tentative in nature and shall not affect the merits of the case.

JUDGE