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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail Appln. No S-249 of 2021

Date _____ Order with signature of Hon'ble Judge _____

1. For orders on office objection.
2. For hearing of Bail Application.

Mr. Mohammad Ismail Chandio, advocate for the applicant, along with applicant.

Mr. Abdul Ghaffar Kalhoro, Asst. Prosecutor General.

Date of Hearing : 15.09.2021.

Date of decision : 01.10.2021.

ORDER

Omar Sial, J.- Noor Muhammad Mugheri has sought pre-arrest bail in crime number 2 of 2020 registered under sections 409, 468, 471, 477-A and 34, P.P.C. read with section 5(2) of the Prevention of Corruption Act, 1947 at the ACE police station in Jacobabad. Earlier, his application seeking bail was dismissed on 27-10-2020 by the learned Special Judge Anti-Corruption (Provincial) Larkana.

2. The aforementioned F.I.R. was registered on the directives of the learned Additional Sessions Judge, Jacobabad on 27-8-2020. The learned judge went on a surprise visit to the Jacobabad Civil Hospital after which he ordered that an F.I.R. be lodged against the officials of the Hospital on the ground of preparing bogus bills and thus causing a loss of Rs.16,703,617/- to the Government exchequer. 7 persons were booked for the offence, which included the applicant, who was the store-keeper at the hospital.

3. I have heard the learned counsel for the applicant as well as the learned Asst. P.G. My observations and findings are as follows.

4. At the outset only the learned counsel for the applicant submitted that 4 co-accused, Fazal Rehman Lashari, Dr. Ghazanfar Ali Bugti, Abdul Fatah Mugheri and Muhammad Bux Soomro have all been granted post arrest bail on 19-4-2021 and thus the applicant too deserved the concession of bail on ground of consistency. The role of the accused granted bail was far greater than that of the applicant who has not been

assigned any specific role in either the F.I.R. or the challan submitted. The learned Asst. P.G confirms the position. The applicant therefore deserves to be admitted to bail on ground of consistency.

5. It is pertinent to mention that the 4 co-accused were admitted to bail on the ground that the investigating officer had stated that although he was the investigating officer of the case as well as the officer who filed the challan in the case, he had not collected a shred of evidence in the case; that he had not investigated or seized under a memo the bills which were ostensibly false and fabricated; that he had not checked the accounts of the hospital or seized or checked any registers to determine whether any money had been pilfered; that he had not investigated the role of any of the accused in the case; that he had not attempted to find a money trail which would show that any of the applicants was a beneficiary to the alleged embezzlement. Understandably, the learned Asst. P.G. was helpless to argue the matter in light of such disclosures by the investigating officer and the fact that there was nothing on the police file on the basis of which he could take a position. The investigating officer could offer no comment or reply to the queries put to him by the court or the learned Asst. P.G. In the foregoing circumstances, *malafide* on the part of the investigating officer in nominating the applicant as an accused in the case cannot be conclusively ruled out at this stage.

6. In view of the above, the applicant is admitted to pre-arrest bail subject to his furnishing a solvent surety in the sum of Rs.50,000/- and a P.R. Bond of the like amount to the satisfaction of the learned Additional Registrar of this Court, within 7 days of this order.


JUDGE 11/10/21