

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

Cr. Bail Application No.S- 609 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections
2. For orders on MA No.5295/2017
3. For hearing

19.01.2018.

Mr. Waqar Zaunr Advocate applicant/accused
Mr. Shahzado Saleem Nahiyon A.P.G

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ABDUL MAALIK GADDI, J: Applicant is present on interim pre-arrest bail granted to him by this court vide order dated 26.7.2017. Today this bail application is fixed for confirmation or otherwise.

2- The allegations against applicant/accused are that he alongwith co-accused persons committed cheating with complainant by taking Rs.800,000/- from him and gave him forged appointments orders of his son namely Ramesh Kumar and Herchand with forged seals of Irrigation Department and when complainant demanded his amount Rs.800,000/- from the they abused complainant and issued threats that if he demanded money from them will be killed. Thereafter complainant lodged FIR.

3- Notice of this application was issued to complainant for today but he is absent without intimation.

4- It is stated by the learned counsel for the applicant that applicant/accused is innocent and has been involved falsely in this case. He further submits that there is delay of more than two months in lodging the FIR without any plausible explanation, alleged offence does not fall within the prohibitory clause of section 497 Cr.P.C, complainant has filed affidavit extending his no objection for confirmation of bail of applicant/accused but

the trial court without assigning any good reason passed the impugned order rejecting the bail plea of applicant/accused. He further submits that during investigation of the case, the Investigating Officer has submitted report U/s 173 Cr.P.C in “A” class but the learned trial court did not accept the same and ordered to the Investigating Officer of the case to submit challan. He further submits that applicant/accused is appearing before the trial court regularly without any progress in the case, hence according to him , interim pre-arrest bail already granted to him may be confirmed.

5- Learned A.P.G in view of above arguments and grounds raised in the memo of bail application has recorded his no objection, if interim order extended in favour of applicant/accused is confirmed on same terms and conditions.

6- I have given my anxious thoughts to the contentions raised at the bar and comes to the conclusion that applicant/accused has made out a case of further enquiry on the ground that FIR is delayed for two months after alleged incident. It is admitted fact that challan against applicant/accused has already been submitted where applicant/accused is facing trial. It has been pointed out that during the investigation of the case, the Investigating Officer has submitted the report under “A” class but the learned trial court did not accept the same, it is to be seen at the time of trial whether the version of Investigating Officer of the case submitted in his report was correct or otherwise. It also appears from the record that punishment of the offence under which applicant/accused is facing trial does not fall within the prohibitory clause of section 497 Cr.P.C. Under these circumstances, the grant of bail is a rule and refusal is exception but no exceptional ground has been pointed out in this case to with hold the bail of applicant/accused. Learned counsel for applicant/accused has drawn the attention of the court towards the no objection of the complainant for grant of bail but the learned trial court did

not accept the same. It is yet to be seen at the time of trial that applicant/accused is innocent in this case or otherwise. Learned APG has recorded his no objection for confirmation of interim pre-arrest bail already granted to the applicant/accused.

7- In view of above this bail application is allowed, interim order dated 26.7.2017 is confirmed on same terms and conditions with direction to the applicant/accused to appear before the trial court to face his trial. Needless to mention here that above observation is tentative in nature and will not influence the trial court at the trial.

JUDGE

A.Rasheed