

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

Criminal Bail Application No.S-65 of 2019  
[Syed Abid Ali v. The State]

Criminal Bail Application No.S-72 of 2019  
[Maqbool Ahmed v. The State]

Date of hearing: 29.03.2019.

Date of decision: 29.03.2019.

Applicants: Syed Abid Ali [Cr. B.A. No.S-65/2019], through Mr. Rao Faisal Ali, Advocate.

Maqbool Ahmed [Cr. B.A. No.S-72/2019] through Mr. Bhagwandas Bheel advocate along with Ms. Salma Fateh, advocate.

Respondent: The State through Mr. Shahid Ahmed Shaikh, Deputy Prosecutor General, Sindh.

**ORDER.**

***Fahim Ahmed Siddiqui, J:*** By preferring the instant bail applications, the applicant Syed Abid Ali is seeking pre-arrest bail and applicant Maqbool Ahmed is seeking post arrest bail in the case registered against them at PS ACE, Mirpurkhas vide Crime No. 04 of 2018 under Sections 218, 409, 420, 467, 468, 471 & 34 PPC read with Section 5(2) Act-II of 1947. Since cases of the applicants are arising out of one and same crime, as such, their bail applications are being decided by this single order.

(2) I have heard the arguments advanced from either side and perused the available record and case laws cited before me. After getting enlightened by the valued submissions made before me and scanning the available record, I have observed as under:

- (a) The applicants are the officials of the Taluka Municipal Administration, Mirpurkhas. The allegations against the applicants are that they along with and in collusion of other nominated accused have misappropriated huge amount on the basis of fake documents, which was allocated / released by the Government for the repair of sewerage lines and supply of relevant material.
- (b) The applicant Syed Abid Ali has taken stance that during the period when the alleged amount was withdrawn, he was not posted as Head Cashier and if the alleged misappropriation of the amount is made, for that he is not responsible.
- (c) That the applicant Maqbool Hussain also taken stance that he was not in charge of the alleged period at the time of withdrawal of the alleged amount and according to him though he was promoted and appointed as Head Cashier but the charge of the Head Cashier was not handed over to him, hence, against such act of deprivation from the posting / charge, he preferred a petition being C.P. No.D-1819 of 2012 before this Court. He disputed his involvement in the instant case to be false one.
- (d) That the alleged misappropriation of the amounts cannot be made only by the applicants, there must have been a chain of the accused but the applicants who being low grade employees have been booked in the instant crime but the high-ups have not been arrayed in the line of accused.
- (e) It is emphasised during the course of arguments that the applicants are made escaped goat in the instant case, and in the peculiar circumstances of the case, it appears to be coherent.
- (f) It is not clear so far that who has committed such negligence or criminal negligence with a mindful and intentional act of

causing loss to public exchequer, as such, the case becomes of further probe.

- (g) The offence of 'criminal breach of trust' under Section 409 PPC, itself requires further probe.
- (h) The applicants are employees of Local Government Department and the applicant Maqbool Ahmed succeeded in getting interim pre-arrest bail on 21-01-2019 and since then he is regularly attending this Court while applicant Syed Abid Ali is behind the bars and there is no apprehension of absconding of the applicants or becoming fugitive to law and trial.

(3) In the light of the above observations, I am of the considered view that no ground exists for refusing the extra-ordinary plea of pre-arrest bail of the applicant Maqbool Ahmed as well as bail plea of applicant Syed Abid Ali. Resultantly, through the short order dated 29.03.2019, the interim relief granted to the applicant Maqbool Ahmed was confirmed on the same terms and conditions and applicant Syed Abid Ali was admitted to post arrest bail, subject to his furnishing a solvent surety in the sum of Rs.4,00,000.00 [Rupees four hundred thousand only] and PR bond in the like amount to the satisfaction of learned trial Court.

(4) Apparently in the instant matter certain amount has been misappropriated but instead of involving the high-ups and actual culprits, the applicants have been booked. The Investigating Officer Khuda Bux Thebo was present in Court and submitted that the investigation is being continued and some evidence has been submitted before the concerned Court within a period of one month's time, hence, he was directed to furnish a copy of final report before this Court in the instant matter. These are the reasons for the same for my short order.

(5) Before parting, I would like to make it clear that if the applicants after getting bail will not appear before the trial Court and the trial Court

is satisfied that the applicants become absconder and they have chosen to be fugitive to law, then the trial Court is fully competent to take every action against the applicants and their sureties including cancellation of their bail without making a reference to this Court.

JUDGE

Dated 18.04.2019.

\*Abdullah Channa/PS\*