

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

Criminal Bail Application No.S-269 of 2018  
[Ghulam Hussain & 3 others v. The State]

Criminal Bail Application No.S-270 of 2018  
[Ghulam Hussain & another v. The State]

Date of hearing: 08.04.2019.

Date of decision: 08.04.2019.

Applicants: Ghulam Hussain, Ghulam Serwar, Zahid Moazam Shah and Azizullah Masroor [Cr. B.A. No.S-269/2018], Ghulam Hussain and Zahid Moazam Shah [Cr. B.A. No.S-270 / 2018] are present on interim pre-arrest bail through Mr. Zulfiquar Ali Abbasi, advocate.

Respondent: The State through Mr. Imran Ahmed Abbasi, Assistant Prosecutor General, Sindh.

**ORDER.**

**Fahim Ahmed Siddiqui, J:** By preferring the instant bail applications, the applicants are seeking pre-arrest bail in the cases registered against them at PS ACE, Dadu vide Crime No. 11 of 2016 under Sections 409, 420, 467, 477-A & 34 PPC read with Section 5(2) Act-II of 1947 as well as Crime No.12 of 2016 under sections 409, 420, 467, 477-A & 34 PPC read with Section 5(2) Act-II of 1947. Since both the cases are of similar nature, as such, the 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 District Account Office, Dadu. The allegations against the applicants are that they along with and in collusion of other nominated accused including some pensioners have misappropriated huge amount, which was deposited in the accounts of those pensioners. It is alleged that the false pension vouchers were issued by the applicants which were deposited in the accounts of the pensioners during 2011 to 2012. Following is the detail of excess amount deposited in the account of respective pensioners.

- Saima 10 vouchers, amounting to Rs. 11,13,481/-
- Dodo Khan 04 vouchers, amounting to Rs. 4,03,131/-
- Ghulam Nabi 04 vouchers, amounting to Rs. 6,98,405/-
- Shehnaz 03 vouchers, amounting to Rs. 11,46,860/-
- Asma 02 vouchers, amounting to Rs. 7,07,959/-
- Miss Kiran 02 vouchers, amounting to Rs. 6,64,175/-
- Erum 04 vouchers, amounting to Rs. 7,76,253/-

(b) From the record, it appears that the amount was deposited in the accounts of pensioners and it is not claimed that those pensioners are fake persons but in spite of fact that they are government pensioners, none of them has been apprehended or forced to appear before trial Court.

(c) In final report, the co-accused Aziz Mustafa, who is the head of the Pension Branch, was let off along with three others. However, being incharge, the co-accused Aziz Mustafa cannot be given a safe passage from their vicarious liability.

(d) 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.

(e) All the pensioners belong to the Education Department, as such, some of the officials of Education Department must have been at least privy with the affairs but none of the

officials of Education Department has been nominated as accused or cited as witnesses.

- (f) So far, the only progress made in this case, is the framing of charge and thereafter no progress towards disposal is observed in trial.
- (g) It is not clear so far that it is a matter of simple negligence or criminal negligence with a mindful and intentional act of causing loss to public exchequer, as such, the case becomes of further probe.
- (h) The offence of 'criminal breach of trust' under Section 409 PPC, itself requires further probe.
- (i) The applicants are civil servants and they succeeded in getting interim pre-arrest bail on 02-04-2018 and since then they are regularly attending this Court as well as trial Court 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 applicants. Resultantly, through the short order dated 08-04-2019, the interim relief granted to the applicants in these bail applications is confirmed on the same terms and conditions and these are the reasons for the same.

(4) 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 16.04.2019.  
\*Abdullah Channa/PS\*