

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

**CrI. Bail Appln: No.S-431 of 2018.**

Dilbar Hussain Memon @ Danish Memon. . . . .Applicant.

Versus.

The State. . . . .Respondent.

Mr. Imdad Ali Memon, Advocate for the Applicant.

Applicant is present on interim pre-arrest bail.

Ms. Sana Memon, APG.

Mr. Ali Abbas @ Nauman Ali, Advocate alongwith the complainant.

Date of hearing and order 28.06.2018.

**ORDER**

**IRSHAD ALI SHAH, J.** It is alleged that the applicant with rest of the culprit, was found committing theft of electricity when was prevented from doing so by complainant Danish, an official of HESCO, they deterred him from discharging his lawful duty as a public servant by insulting him, for that the present case was registered.

2. On having been refused pre-arrest bail by the learned Additional Sessions Judge, Hala, the applicant has sought for the same from this Court by making the instant bail application under section 498 Cr.P.C.

3. It is contended by the learned counsel for the applicant that he being innocent has been involved in this case falsely by the complainant party on account of his refusal to pay them "Bhatta", the offence is not falling within prohibitory clause and co-accused Noor Muhammad Shah has already been admitted to post-arrest bail by the learned trial Court. By contending so, he

sought for grant of pre-arrest bail to the applicant, as according to him, he apprehending his unjustified arrest at the hands of police

4. While rebutting the above contention, learned counsel for the complainant and learned APG have opposed to grant of pre-arrest bail to the applicant by contending that he has committed theft of electricity

5. I have heard learned counsel for the parties and perused the record.

6. There is delay of about two days in lodging the FIR; same could not be lost sight of, as it is reflecting consultation. No property was stolen, as such section 379 PPC was not applicable to the facts and circumstances of the present case. Sections 353 and 504 PPC are bailable in its nature, while section 39 of the Electricity Act is entailing the punishment of imprisonment which may extend to 03 years or fine which may extend to five thousand rupees. If after due trial, the applicant for above said section is imposed penalty of fine only then the punishment which he is likely to undergo on account of refusal of pre-arrest bail, would be somewhat extra. Co-accused Noor Muhammad Shah has already been admitted to bail the learned trial Court. In these circumstances, it is rightly being contended by the learned counsel for the applicant that the applicant is entitled to grant of pre-arrest bail, as he is apprehending unjustified arrest at the hands of police.

7. In view of above, the interim pre-arrest bail already granted to the applicant is confirmed on same terms and conditions.

The instant criminal bail application is disposed of in above terms.

JUDGE