

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

Cr. Bail Application No. S- 37 of 2020

DATED	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

10.02.2020

Applicant Mumtaz Ali is present on interim bail.

Mr. Mian Taj Muhammad Keerio, Advocate for applicant.

Ms. Rameshan Oad, Asst. Prosecutor General.

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ABDUL MAALIK GADDI, J- Through this bail application, applicant Mumtaz Ali seeks pre-arrest bail in crime No.GO-11 of 2019 registered U/S 409, 420, 467, 468, 471, 34 PPC R/W Section 5(2) Act-II, 1947 at Police Station ACE Sanghar. Earlier, applicant had filed Cr. bail application before the trial court for grant of bail but the same was dismissed vide order dated 06.01.2020.

2. The allegation against the applicant / accused is that he along with other officials of Fisheries Department named in the F.I.R have misappropriated / looted the government amounts / funds.

3. Learned counsel for the applicant / accused argued that applicant / accused is innocent and has been falsely involved in this case; that co-accused nominated in the instant F.I.R have already been granted bail by this Court vide order dated 13.01.2020 and the case of present applicant / accused is on better footing to that of those accused therefore, he is also entitled to the same relief; that case has been challaned and the applicant is no more required for investigation; that F.I.R is delayed for about 13 years for which no satisfactory explanation has been furnished by the complainant therefore, he prays for confirmation of interim bail already granted to the applicant.

4. Learned A.P.G in view of the above recorded her no objection on the ground of rule of consistency. However, she submits that applicant may be directed to appear before the trial Court regularly.

5. I have heard the arguments of learned counsel for the parties and perused the material available on record. It appears from the record that case has already been challaned and applicant / accused

is no more required for investigation. The only allegation against the applicant is that he along with co-accused nominated in the F.I.R has committed misappropriation / looted the government amounts / funds however, it is yet to be determined at the time of trial whether the government funds have been misappropriated by the applicant or otherwise. It is noted that co-accused have already been granted bail by this Court vide order dated 13.01.2020 therefore, rule of consistency also applicable to this case. It also appears from the record that F.I.R has been lodged after the delay of about 13 years for which no satisfactory explanation has been furnished by the complainant therefore, false implication of the applicant in the instant case with due deliberation and consultation could not be ruled out. It is also noted that sections applied in the F.I.R and the challan sheets are either bailable or their punishment(s) do not fall within the ambit of prohibitory clause of section 497 Cr.P.C, except sections 409 and 467 PPC and it is yet to be determined at the time of trial whether the said sections are attracted or proved in the present case or otherwise.

6. As observed above, the case has been challaned therefore, sending the applicant to jail would not serve the purpose however, it is expected that the trial Court shall decide the case as early as possible. In these circumstances, the interim pre-arrest bail already granted to the applicant vide order dated 14.01.2020, is hereby confirmed on the same terms and conditions with direction to the applicant to appear before the trial Court to face the trial.

7. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the time of.

8. Before parting, I would like to make it clear that if the applicant misuses the concession of bail in any manner, then the trial Court is fully authorised to take every action against the applicant and his surety including cancellation of bail without making any reference to this Court. Office is directed to communicate this order to the trial Court for information and compliance.

JUDGE

Fahad Memon

10.02.2020