

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.570 of 2020

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

1. For orders on office objection at 'A'.
2. For hearing of bail application

Earnest David @ Farhan ..Vs... The State

15.06.2020

Mr. Waqar Alam Abbasi, advocate for the applicant.
Ms. Amna Ansari, Addl.P.G. Sindh.

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1. Through instant bail application, applicant/accused seeks bail after arrest in **FIR No.334/2019**, under **Section 419/420/34 PPC** registered at police station Maripur, Karachi. Earlier the applicant/accused approached the IInd Additional Sessions Judge, West, Karachi for post arrest bail, which was declined vide order dated **10.02.2020**. Thereafter, the applicant approached this Court for grant of post arrest bail.

2. Brief facts of the prosecution case are that on 20.11.2019 Asim Nisar Ahmed who is working as Administrator with Sindh Ruler Spos organization (SRSO) lodged FIR against the applicant. On 18.11.2019 one Asifa Asif informed that five persons introducing them as staff of SRSO are doing biometric of the area people and also taking their copies of CNICs whose photographs have received. On inquiry it came to know that one of them is known as our ex worker namely Easter David @ Rehan son of David Gull (ii) Asghar s/o not known (iii) Sadique s/o not known (iv) Mst. Hina d/o not known (v) Mst. Parveen Bibi d/o not known. Who were doing unlawfully biometric of the area people near Quaid Public School, Madni Colony cracks village Maripur claiming themselves as representative of (S.R.S.O) while there is no any bio-matric system of our company has been made in the said area and three months have been passed the said program has been winded up. I have come to report that my claim is against above named accused persons for committing cheating and fraud with the people and doing medical and taking amounts from them unlawfully.

3. Learned counsel for the applicant contended that applicant/accused is innocent and has falsely been implicated in this case with malafide intention and no name of private witness has been mentioned in the FIR or in memo of recovery which creates serious doubt in the prosecution case as well as makes the recovery doubtful. He further contended that accused is behind the bar since his arrest and the case has been send to FIR but till now no further progress has been made in the case which entitles the accused for the grant of bail. He further contended that complainant has failed to show any reason or motive for committing such an offence in his statements which also makes this case doubtful.

4. Learned Addl. P.G opposed the bail application contending that recovery has been affected from the accused.

5. I have heard the arguments and perused the record and I have noticed as under:-

- i. The accused is arrested in **FIR No.334/2019** under Section **419/420/34 PPC**. The maximum punishment in both the offence is seven years.
- ii. The complaint was registered at local police station of Maripur on **20.11.2019**. Interim challan filed by the prosecution has been returned and thereafter the correspondence shows that till date it is not finalized that whether the FIA will take action against the accused who is behind the bar.
- iii. Learned counsel for the Prosecution by referring to the letter available at page 55 of the File has informed that case pertains to the FIA.
- iv. To be very precise the legal position is that on complaint lodged to the FIA the registration of FIR is subject to an inquiry by the FIA and in this very case no complaint has been made to the FIA and the FIR registered by local police cannot be treated as a complaint to the FIA by the complainant at local police

for an alleged offence which does not fall under the purview of local police.

- v. The delay of seven months even to decide the fate of the jurisdiction to try the applicant is enough to grant bail since even otherwise offence does not fall within prohibitory clause
- vi. Applicant/accused is behind the bars for more than seven months and is no more required for further investigation; therefore, no useful purpose would be served by keeping the applicant behind the bars for indefinite period.

6. In view of the above, the applicant / accused is admitted to bail subject to furnishing solvent surety in the sum of **Rs.1,00,000/-** and P.R bond in the like amount to the satisfaction of the Nazir of this Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

JUDGE