

**IN THE HIGH COURT OF SINDH AT
KARACHI**

Cr. Bail Appln.No.452/2017

Applicant/accused : Jahanzaib Qazi, through Mr.
Muhammad Nadeem Khan,
Advocate.

Respondent : The state through Mr. Zafar Ahmed
Khan learned APG along with Mr.
Mehboob Lakhani, for the
Complainant

Date of hearing &
Short Order : 19.05.2017

YOUSUF ALI SAYEED, J. In terms of this Bail Application, the Applicant prays that he be enlarged on bail in relation to alleged offences under Sections 406/408/420/468/471/489-F PPC, which are the subject of FIR No.45/2017 registered on 28.02.2017 at P.S. Tipu Sultan, Karachi (the "**FIR**"). His earlier bail application was turned-down by the trial Court in terms of order dated 03.04.2017, as impugned in these proceedings.

2. From what is disclosed in the FIR, it appears that the Applicant are that he was employed as a sales representative by an oil marketing company, and the allegation against him is that in that capacity, between February and December 2016 he colluded with one Asad Raza, who was the National Sales Manager, to cheat and defraud the company by executing sales transactions in favour of one Muhammad Naeem, as it is said was not a customer of the Company. It is also said that he executed transactions in favour of fictitious customers on terms contrary to the sales policy. It was said that they had created dummy customer business codes, hidden original cheques issued in the name of the company aggregating to Rs.58,000,000/- and also returned a bounced cheque issued by Naeem back to him without taking the permission from higher management.

3. Learning counsel for the applicant submitted that the Applicant was innocent and had been falsely implicated in the FIR for ulterior motives. He submitted that there was a delay of 13 months between the time that the supposedly unsanctioned transactions were said to have been commenced and the filing of the FIR, which served to demonstrate the implausibility of the allegations and created serious doubt as to the veracity thereof. He submitted that the fraud, as alleged, could not have been perpetrated by sales personnel without the complicity of persons in the other departments, particularly finance, and that the allegation against the Applicant of having generated customer codes was a case in point, as this was also the function of another department. He pointed out that as per the interim Charge Sheet, no case property had been found. Furthermore, he submitted that the sections that have been applied to the FIR were not attracted under the circumstances.
4. Having considered the nature of the allegations set out in the FIR as well as the material on record and the arguments advanced at the bar, it appears that the particulars of the transactions said to have been executed or orchestrated by the Applicant have not been disclosed with specificity in the FIR, and when queried on this point, learned counsel for the complainant, whilst assisting the learned APG, was unable to shed much light on the matter. When called upon to show what material, or trail if any, may connect the Applicant with the allegations mentioned in the FIR, it was merely submitted that such material existed in the shape of a confession said to have been made by the Applicant before the management of the Company.
5. In view of the foregoing I am of the opinion that the matter is one that presently requires further enquiry and as per the principles laid down by the Honourable Supreme Court in the case reported as Tariq Bashir & 5 others v. The State PLD 1995 SC 34, the Applicant has succeeded in making out a fit case for grant of bail.

6 These are the reasons for the short Order made in Court on 19.05.2017 whereby the Applicant was enlarged on bail in relation to the FIR subject to furnishing solvent surety in the sum of Rs.350,000/- and execution of P.R. Bond in like amount to the satisfaction of the Nazir of this Court.

JUDGE

Talib