

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.1445 of 2020

Date	Order with signature of Judge
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1. For orders on office objection at A
2. For hearing of bail application

01.04.2021

Mr. Muhammad Asif Javed, advocate for applicant/accused.
Ms. Azra Hammad, advocate for complainant.
Mr. Talib Ali Memon A.P.G. Sindh.

Salahuddin Panhwar, J.-After dismissal of pre-arrest bail, applicant Muhammad Asif-ur-Rehman has approached this Court for the same relief. Heard learned counsel for the respective parties, the interim pre-arrest bail granted to the applicant/accused vide order dated 24.09.2020 is recalled, consequently, the instant bail application is dismissed for the following reasons.

2. The applicant is nominated in Crime No.160/2020, under Sections 420/506/34/468/471 PPC registered at PS Aram Bagh, Karachi by complainant Ali Muhammad.

3. Learned counsel for the applicant, *inter alia*, contended that applicant is innocent and has been falsely implicated in an offence which was alleged committed in the year 2018; that such delay in registration of the FIR has not been furnished by the complainant; that dispute as alleged in the FIR is of civil nature; that the story concocted by the complainant in the FIR was just to harass and humiliate the applicant; that no specific role has been assigned to the applicant. Lastly, it is submitted that the interim pre-arrest bail granted to the applicant may be confirmed. In support of his submissions he relied upon case laws reported as 2005 P.Cr.L.J 89, 2010 P.Cr.L.J 545, 2005 MLD 494, PLD 1995 S.C. 34, 1993 P.Cr.L.J 446 and 2007 MLD 372.

4. Conversely, learned Additional Prosecutor General Sindh duly assisted by learned counsel for the complainant opposed the instant bail application on the ground that applicant cheated the complainant by presenting himself as owner of the property, however, the real owner got recorded his statement, wherein he denied execution of any Sale Agreement; that delay in lodging of the FIR has been furnished by the complainant, therefore, it is prayed that instant bail application may be dismissed.

5. Perusal of record shows that applicant presented himself as owner of the flat, which he sold out to the complainant after taking a huge amount as advance. Muhammad Asif, the real owner of the flat has also filed his statement before this Court wherein he categorically stated that applicant illegally and unlawfully sold out his flat to complainant while using his name and the applicant has also filed fake documents before the police. It is settled principles of law that grant of pre-arrest bail is an extraordinary remedy, rooted into equity, to protect the honour and freedom of the innocent in criminal cases actuated by abuse of process of law. Reliance is placed upon the case reported as **Abdul Aziz Memon Vs. The State (2020 SCMR 313)**. Learned counsel for the applicant has failed to establish that the prosecution is based upon mala fides, ulterior motives and on the other hand, the applicant in his bail application has admitted his signatures on the said Sale Agreement. The case law relied upon by learned counsel for the applicant is on different footing, even otherwise, the precedents in bail matters are of no help to a party, as it varies from case to case depending upon the facts of each case.

7. For the above stated reasons, I have come to the conclusion that applicant has failed to make out a case for grant of extra-ordinary relief of pre-arrest bail at this stage. I, therefore, recall the interim pre-arrest bail granted to the applicant vide order dated 24.09.2020. Consequently, this bail application is dismissed.

8. Needless to observe that the above observations are tentative in nature and the trial Court shall not be influenced, in any manner, while deciding the case on merits.

JUDGE

Sajid