

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

**CR. BAIL APPLICATION NO.531/2021**

Applicant : Muhammad Ali,  
through M/s. Tajammul H. Lodhi and Nausheen  
Khan Tajammul, advocates.

Respondent : The state,  
Mr. Faheem Hussain Panhwar, DPG for the  
State.  
Mr. Fayyaz Ahmed advocate for complainant.

Date of hearing : 20<sup>th</sup> April and 4<sup>th</sup> May 2021.

Date of order : 4<sup>th</sup> May 2021.

**ORDER**

**SALAHUDDIN PANHWAR, J.** Precisely facts of the case are that complainant Rao Muhammad Khalid lodged FIR on 24.11.2020, that he is working as Corporate Security and Admin Manager in Tri-Pack Films Limited; that Muhammad Ali (present applicant) and Zohaib Hassan are also working there as Sales Officer and Dispatch Manager respectively; Zohaib had suddenly stopped coming to office and during the internal audit it was transpired that from the months of January 2019 to September 2020 Zohaib and Muhammad Ali sold the goods amounting to Rs.37,898,231/- fraudulently by making fake/forged documents; both persons had also not deposited such amount in the account of the company and during the enquiry Sales Officer Muhammad Ali also admitted that he alongwith Zohaib Hassan had sold the goods fraudulently and they also distributed the amount among themselves. It was further reported that Muhammad Ali sought one month's time to return the amount but failed to do so and even did not return the vehicle which was given to him by the company.

2. Heard learned counsel for applicant, complainant and learned DPG.

3. Learned counsel for applicant contended that a civil suit No.918/2020 is pending before 1st Senior Civil Judge Karachi (South) fled by applicant against complainant company for recovery of Rs.86,02,003/- on the ground that on 01.01.2000 applicant joined M/s. Tri Pack Company as Marketing Support Officer later on appointed as Office Assistant on 31.05.2000; that he worked only to receive orders from market has to place before concerned department of company; that on 28<sup>th</sup> September, 2010 complainant company issued 10 years' service award letter and souvenir to him; that on the basis of annual performance year 2018 and his operational efficiencies complainant company had increased his monthly remuneration; that on 01.09.2020 when applicant came to his office as per daily routine the CEO, Nasir Jamal, HR Manger Taimoor Ahmed, Marketing Manager Muhammad Umer Khan called to present accused in a separate room of company, detained and mentally tortured him as well as maltreated him and forcibly took signature in two blank/plane paper wherein only present accused's name and his employee number was mentioned and they also seized his cell phone; that on 19.09.2020 he received termination letter thereafter he served a legal notice upon the management of complainant company; that he received letters from complainant company requesting to extend some time in connection of above legal notice dated 21.09.2020; that as per audit of company there is even no evidence at all the applicant has committed offence as alleged; that complainant to harass the applicant has registered false FIR; that present FIR is outcome of above mentioned suit filed by applicant against the complainant

company and its management; that as per FIR alleged incident took place in the year 2019 to September 2020 but the FIR was lodged in the month of November, 2020 without explaining the delay.

4. Learned counsel for the complainant have contended that name of present applicant alongwith role is mentioned in the FIR; this is a case of crime in respect of financial corruption; during the investigations applicant was arrested on 30.11.2020 who disclosed that he alongwith Zohaib Hassan, Naveed Qamar, and Zulfiqar had committed the offence as he in collusion with Zohaib and Naveed Qamar used to load goods on the vehicle beyond the sanctioned orders and the surplus goods had been sold to customers and they retained the money in shape of cash or open cheques; that accused persons had also manipulated the invoices and embezzled huge amount and distributed it among themselves; that PWs have clearly assigned role to the present applicant; that I/O has obtained the record from the bank accounts of the accused persons; there is no malafide on part of complainant; deeper appreciation is not warranted at bail stage.

5. Learned DPG has adopted the contentions of counsel for complainant.

6. *Prima facie*, the alleged offence is said to have been committed within a span of January 2019 to September 2020 wherein the accused persons, including applicant / present accused, allegedly committed fraud worth Rs.37,898,231/- by selling goods of the company. *Normally*, the record of the company is maintained on daily basis therefore, remaining of *fraudulent* sale of goods of such huge amount, in dark *itself* requires further probe. The claimed

so-called admission of the applicant/accused is, *prima facie*, disputed and even challenged through civil litigation. Offence with which the applicant / accused is charged, rests on documentary evidence / material and prosecution has not claimed chances of same (material) being tampered with. The applicant / accused is also behind the bars since 30.11.2020 and is no more required for purpose of investigation. The offence, if any, also does not fall within prohibitory clause of Section 497(1) Cr.P.C as well there are no exceptional circumstances which could justify keeping the applicant / accused behind the bars for an indefinite period. The offence, if any, is also not against the society but allegedly the company is defrauded. The charge and status of the record / material is yet to be proved therefore, keeping the applicant / accused behind the bars does not appear to be justified. The applicant / accused was found to have made out a case for his release on bail, pending determination of his guilt which, if comes in affirmation, there is legal presumption of applicant / accused being awarded with adequate punishment. Hence by short order dated 04.05.2021 applicant was admitted to post arrest bail; these are reasons of that order.

**J U D G E**

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