

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.1837 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
	For hearing of Bail Application -----

13.04.2017

Mr. Ehsanullah Khan and Ms. Naila Tabassum, Advocate for the Applicant.

Mr. Khaleeq Ahmed, Advocate for Complainant.

Mr. Shaikh Liaquat Hussain, Assistant Attorney General.

Rasheed Ahmed Shaikh, Inspector FIA CBC.

Fahim Iqbal Siddiqui, CEO of M/s. Fahim, Nanji & Desouza (Pvt) Ltd.

Muhammad Junaid Ghaffar J. Through this Criminal Bail Application, the Applicant/Accused seeks post arrest bail in F.I.R No.26/2016, registered under Sections 408, 420, 468, 471, 477-A, 109/34 PPC at P.S. FIA, Commercial Bank Circle, Karachi. The Bail Application of the Applicant/Accused has been dismissed by the Trial Court vide Order dated 13.12.2016.

2. We have heard the learned Counsel for the Applicant as well as Assistant Attorney General and the learned Counsel for the Complainant Bank, who was issued notice by the Court and have perused the record. Our observations are as under:-

- a) The Applicant/Accused has been arrested in this crime for siphoning of a huge amount of more than 6 Million Rupees from the account of Company, where he was employed as an Accountant by using forged signatures of the Director/owners of the Company on cheques. The Applicant/Accused had admitted his guilt, whereas, two cars purchased by him from the said money has been surrendered through his nephew.

- b) During investigation and thereafter it has come on record that the Applicant/Accused besides encashment of cheques from the Bank has even deposited the Company's cheques in his personal joint account being maintained at Allied Bank Ltd. Hyderi Market Branch, Karachi and the Operations Manager has fully implicated the Applicant/Accused to that extent. While confronted, the learned Counsel submitted that this was done on instructions of another partner / director of the company. We are not at all impressed by such line of argument as it has no basis.
- c) It is not in dispute that the applicant being accountant was having access to the cheque books and was also visiting the Bank(s) for encashment and transfer of the same as per the Statement of Bank Officers.
- d) Final Challan has been filed in this matter perusal whereof it reflects that Expert's opinion also obtained and it has come on record that the signatures on all such cheques are bogus signatures vis-à-vis the authorized signatory. Whereas, the signatures/writing is similar with the specimen and routine writing obtained from the Applicant/Accused. In our opinion at this stage of the proceedings insofar as the Bail Application is concerned, this Expert's opinion is vital and is against the Applicant/Accused.
- e) Insofar as the legal ground(s) urged by the learned Counsel for the Applicant vis-à-vis the jurisdiction of FIA in this matter, we may observe that it is only a bail application which is before us, whereas, cognizance has been taken by the Special Court (Offences in Banks), at Karachi. Even otherwise as observed by the Hon'ble Supreme Court in the case of **Director General Anti-Corruption Establishment Lahore v. Muhammad Akram Khan (PLD 2013 SC 401)**, that ***"the law is quite clearly settled by now that after taking cognizance of a case by a trial court the FIR registered in that case cannot be quashed and the fate of the case***

and of the accused persons challaned therein is to be determined by the trial court itself, no declaration can be given by this Court in these proceedings for which the Applicant/Accused is at liberty to seek proper remedy in accordance with law.

- f) The applicant has been fully implicated in this matter by all the prosecution witnesses and the contention of the learned Counsel for the applicant that it is a case of further enquiry is devoid of any merits.

3. In view of hereinabove position we are of the view that no case for grant of bail including any further enquiry is made out and therefore, by means of a short order in the earlier part of the day, instant Bail Application was dismissed and these are the reasons thereof.

Judge

Judge

Ayaz P.S.