

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-134 of 2023

Applicant: Waqas Ali Khan son of Asif Ali Khan, through Mr. Ali Gul, Advocate.

Complainant: Akbar son of Ahmed, through Mr. Mushtaque Ahmed Abro, Advocate.

Respondent: The State through Ms. Rameshan, Assistant Prosecutor General, Sindh.

Date of hearing: **07.04.2023**

Date of Order: **07.04.2023**

O R D E R

AMJAD ALI SAHITO, J:- Through the instant criminal bail application, the applicant above named seek his post-arrest bail in Crime No.08 of 2023, under sections 420 and 408 P.P.C, registered at P.S Badin, after his bail plea was declined by the learned Sessions Judge, Badin vide order dated 03.02.2023.

2. The details and particulars of the F.I.R. are already available in the bail application and crime report, same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Per learned counsel the allegation against the applicant is that he had taken away money from complainant party viz. Rs.50,56,800/- with the understanding that he will purchase cattle within two days and will hand over to the complainant; that offence in which the applicant is charged does not fall within the prohibitory clause of section 497 Cr.P.C and it is yet to be seen whether the complainant has handed over money to the applicant / accused Waqas Ali Khan or not when evidence will be recorded. He lastly prayed for grant of bail.

4. On the other hand, learned counsel for complainant as well as Assistant Prosecutor General, Sindh vehemently opposed for grant of bail to the applicant on the ground that complainant gave cash money of Rs.50,56,800/- to the applicant / accused but neither he produced the animals for him nor returned the said amount; however, on inquiry it is revealed that a person who is doing a business of more than fifty lacs whether he is paying income tax or not, for which, complainant's counsel unable to reply the same.

5. I have heard learned counsel for the parties and gone through the material available on the record.

6. Perusal of record reflects that no receipt or documentary evidence has been produced by the complainant to believe that the amount was handed over to the applicant or not. Furthermore, it is yet to be seen when evidence will be recorded whether subject amount was handed over to the applicant or not. The case has been challaned and the custody of applicant is no more required so no purpose would be served to keep him in jail for indefinite period. In such circumstances, the learned counsel for the applicant/accused has made out a case for grant of post-arrest bail in view of subsection (2) of section 497 Cr.P.C, resultantly the instant bail application is allowed and the applicant/accused is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- and P.R. bond in the like amount to the satisfaction of learned Trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature would not influence the learned Trial Court while deciding the case of either party at trial.

JUDGE