

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 691 of 2023

For hearing of Bail Application.

Applicant/ Accused : Muhammad Shadman Khan son of
Muhammad Salam Khan through
Mr. Saifullah Abbasi, Advocate.

Complainant : Muhammad Hafeez Memon son of
Muhammad Hashim Memon, through
Mr. Asadullah Burdi, Advocate.

The State : Through Ms. Rahat Ehsan,
Additional Prosecutor General Sindh.

Date of hearing : 19-04-2023

Date of order : 19-04-2023

FIR No. 1701/2022
U/s: 468/471/408/420/34 PPC
P.S. SSHIA, Malir.

ORDER

Adnan Iqbal Chaudhry J. - The Applicant/ Accused seeks post-arrest bail in the aforesaid crime after the same had been declined by the Sessions Judge, Malir, Karachi by order dated 17-02-2023.

2. As per the FIR lodged on 17-12-2022, the Complainant who runs a rice mill discovered that his employees namely Aqib and Huzaifa, who managed accounts of the business, had been embezzling money from the business for the last 1 ½ year and on a preliminary assessment amounted to Rs. 3/4 crores. It was during investigation that the accused Aqib allegedly disclosed that some of the embezzled money viz. Rs. 8 lacs was also given to the Applicant, who was at that time also an employee of the Complainant. The Applicant was thus arrested on 04-01-2023.

Heard the learned counsel, the APG Sindh and perused the record.

3. The Applicant was implicated by the co-accused during interrogation in police custody; a statement which has no evidentiary value as held in the case of *Alam Zeb versus State (PLD 2014 SC 760)*. The investigation thus far does not reveal documentary evidence

directly connecting the Applicant with the alleged embezzlement or as beneficiary thereof. The offences under section 420 and 471 PPC are bailable. Regards the offences under section 408 and 468 PPC viz. criminal breach of trust by an employee and forgery for purposes of cheating, both do not fall within prohibitory clause of section 497 Cr.P.C. where grant of bail is the rule and its refusal an exception. The case against the Applicant also requires further enquiry.

4. In view of the foregoing, the Applicant is granted bail subject to furnishing solvent surety in the sum of **Rs. 100,000/- [Rupees One Hundred Thousand Only]** alongwith P.R. Bond in like amount to the satisfaction of the Nazir of this Court.

Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

SHABAN*

JUDGE