

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail App. No. S - 100 of 2023

Date of hearing	Order with signature of Judge
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For hearing of bail application

1. For orders on office objections at Flag-A
2. For hearing of bail application

28.08.2023

M/s Qurban Ali Malano and Israr Ahmed Shah, Advocates for applicant along with applicant Aijaz Ali Khokhar.
Mr. Safdar Ali Bhatti, Advocate for complainant.
Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

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Muhammad Iqbal Kalhoro, J. - Allegedly applicant purchased eight (08) acres of land from complainant by way of an agreement executed in the year 2017 and issued three (03) cheques of total amount of Rs.64,00,000/-, which on presentation in the bank were dishonoured, hence, FIR.

2. Applicant's case is that although he purchased eight (08) acres of land, but on ground, he was given six (06) acres only. He requested for measurement, but complainant avoided to oblige, hence, he stopped payments. Further, he has already paid Rs.10,00,00,000/- (*Rupees ten crore*) to the complainant in his different accounts. But the complainant says that he has been paid only Rs.2,37,00,000/- (*Rupees two crore thirty seven lac*). Applicant's Counsel further submits that he is ready to deposit the amount of respective cheques as security in the trial Court and the trial Court may be directed to order measurement of the land to settle the point. If the land given to applicant is found eight (08) acres, the security amount deposited by him may be given to complainant, and if not, it be returned to him. This prayer is not opposed by complainant's Counsel.

3. I have heard the parties. It appears that on account of a civil dispute between the parties over the land transaction, the case was disposed of in

'B' class as the dispute appears to be essentially on measurement of the land. However, learned Magistrate did not agree with the opinion of the Investigating Officer and took cognizance of the offence against accused. Notwithstanding, it is clear that custody of applicant in view of disposal of the case in 'B' class is not required by police.

4. Since a proposal has been made, which does not appear to have been opposed by learned Deputy Prosecutor General either, plus above factors, this application is **allowed** and ad-interim pre-arrest bail already granted to applicant, vide order dated 13.02.2023, is hereby **confirmed** on the same terms and conditions. However, in addition the applicant shall deposit the amount of respective cheques as security in the trial Court within one month. The trial Court shall order for carrying out measurement of the land. If the land given to applicant is found to be eight (08) acres, complainant would be entitled to withdraw the said amount unhinderedly. But in case the measurement of the land given to applicant is not eight (08) acres, the amount deposited as security would be returned to the applicant. However, the parties would be at liberty to seek their remedy in accordance with law before the proper forum in respect of their respective claims, independent of this order.

5. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

Criminal Bail Application stands **disposed of** in the above terms.

JUDGE