

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Bail Application No.S-188 of 2023

Applicant: Nihal Khan Son of Kamal Khan, through Mr. Naseer Ahmed Panhwar, Advocate.

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

Date of hearing: **18.09.2023**

Date of Order: **18.09.2023**

O R D E R

ZULFIQAR ALI SANGI, J:- Applicant Nihal Khan seeks post arrest bail in Crime No.31 of 2021 registered under sections 420, 468 and 471 P.P.C at P.S Hussainabad Hyderabad. Earlier his application seeking same relief was dismissed by learned Vth Additional Sessions Judge, Hyderabad vide impugned order dated 30.01.2023.

2. In Paradise Alliance Land Company, Muhammad Saifullah (complainant) invested an amount of Rs.22,00,000/- with the understanding that he will get five percent profit of his invested money however neither his deposited amount returned to him nor he received profit incurred thereon thereby the present applicant and others cheated and defrauded him.

3. Learned counsel for the applicant has contended that the offences with which the applicant is charged do not exceed the prohibitory limb of section 497 Cr.P.C; that the parties are disputing on civil side but the complainant with malafide intention converted the same into criminal one in order to satisfy his grudge with him; that there is no direct or indirect evidence against the applicant as such, he is nothing to do with the alleged offence; that the applicant is in custody since his arrest without effective progress in his trial, therefore, prays that applicant may be enlarged on post arrest bail.

4. Learned Assistant Prosecutor General, Sindh appearing for the State has strongly opposed the grant of bail by contending that the applicant has exposed himself as cheater of public money by means of forgery and the society at large has caused mistrust from his act, therefore, he is not entitled for grant of bail and his bail application may be dismissed.

5. I have heard the learned counsel for the applicant as well as the learned Assistant Prosecutor General, Sindh and have also gone through the material available on the record with their able assistance.

6. From the tentative assessment of the record it appears that applicant has been named in the FIR showing him member of the subject company through which acquired sum of rupees twenty two lac from complainant but later on neither provided him his actual deposited amount as well as stopped profit incurred thereon as agreed between the parties. Learned counsel argued that present applicant has no direct connection in respect of money hence he has been falsely implicated in this case. I am not satisfied with above argument of applicant's counsel that one cannot be left unchecked under the grab of false implication against the serious allegation of plundering public money for which the best course available for the applicant is to clean himself after going through the agony of trial. Suffice to say that

applicant has every right to prove his innocence at trial which is not available at bail stage. The applicant is alleged to involve in several cases of like nature and there is long list of victims who have been deprived of huge amounts, each blaming the accused and co-accused for soliciting deposits in lieu of providing car to peoples. In the said circumstances the Hon'ble Supreme Court also declined the bail plea of accused in case of Waseem Zeb Khan Vs. The Chairman, National Accountability Bureau, NAB Headquarters Islamabad [2022 SCMR 1260].

7. On tentative assessment of record discussed hereinabove I am satisfied that there are reasonable grounds to believe that applicant is involved in the offence with which he is charged. Consequently, the applicant has failed to make out his case for grant of bail. Resultantly, this application is dismissed. However, fair trial is right of applicant therefore learned Trial Court is directed to conclude the trial preferably within three months after receipt of copy of this order.

8. Needless to mention here that the observations made hereinabove are only for the purpose of deciding bail application which in anyway shall not prejudice the case of either party at trial.

9. The bail application stands disposed of in the above terms.

JUDGE

Muhammad Danish *