

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 553 of 2023

For hearing of Bail Applications.

Applicant/ Accused : Muzzafar Hussain son of Khadim Hussain (present on interim pre-arrest bail) through Mr. Muneer Ahmed Gilal, Advocate.

Complainant : Tariq Soolat of the ASF Foundation through Mr. Ahmed Ali Ghumro, Advocate.

The State : Through Mr. Siraj Ali Khan Chandio, Additional Prosecutor General Sindh.

Date of hearing : 11-10-2023

Date of order : 11-10-2023

*FIR No. 185/2022
u/s: 420/408 PPC
P.S. Airport Malir, Karachi*

ORDER

Adnan Iqbal Chaudhry J. - The applicant/accused seeks pre-arrest bail in the aforesaid crime after the same has been declined by the Additional Sessions Judge-III, Malir, Karachi by order dated 11-03-2023.

2. The applicant was an employee of the ASF Foundation (the Complainant), working in the capacity of Project Coordinator Manager. The allegation is that the applicant left the office on 20-01-2022 and never returned, and thereafter it transpired that the laptop allocated to him by the Complainant and important documents were also missing. An FIR was eventually lodged by the Complainant against the applicant on 29-11-2022 alleging offences under section 420 and 408 PPC.

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

4. The version of the applicant is that on 20-01-2022, when he came to the office, he was called-in by his superior officer and was

given a letter of suspension and a notice seeking an explanation of misconduct; that in such circumstances, he was not given access to the office and was asked to leave, and therefore there was no question of taking away any property of the Complainant.

5. While alleging that the applicant took away the laptop and documents of the Complainant from the office, the FIR and the challan are completely silent as to the make, specification and value of the laptop. None of the documents allegedly taken away by the applicant have been described. Furthermore, there is a delay of around 11 months in lodging the FIR which has not been explained. Though the challan alleges that one of the contractors of the Complainant has come forth to allege the taking of gratification by the applicant, that offence was not added in the challan and the I.O. had recommended disposal of the case under 'C' class, *albeit* not accepted by the Magistrate.

6. Given the facts above, the applicant has been able to demonstrate *malafides* in lodging the FIR. Therefore, the interim pre-arrest bail granted to the applicant Muzaffar Hussain in FIR No. 185/2022 is hereby confirmed in terms of the order dated 14-03-2023.

Needless to state that the observations above are tentative and shall not be construed to prejudice the case of either side at trial.

JUDGE

SHABAN*