

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Bail Application No.S-82 of 2021.

DATE	ORDER WITH SIGNATURE OF JUDGE
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	For orders on office objections. For hearing of main case.
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01.11.2021.

Mr. Noor-ul-Haq Qureshi and Mr. Saad Salman Ghani advocates for the applicant.
Mr. Masood Rasool Babar Memon advocate for the complainant.
Ms. Sobia Bhatti, Assistant Prosecutor General, Sindh.
Applicant is present on ad-interim pre-arrest bail.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Complainant an officer of Mehran University of Engineering and Technology Jamshoro has registered FIR against applicant, Ex-Accounts Officer in the University, for giving dishonest cheques. Allegedly applicant was found involved in embezzlement alongwith other officers. Against them an inquiry was conducted, they all were found guilty and dismissed from service. No penal action was taken against them notwithstanding due to undertaking given by them to return embezzled amounts. It is stated that the applicant issued two cheques of Rs.3,000,000/- and Rs.2,000,000/- respectively in favor of the University to offset his liability. The cheques however were bounced and resultantly present FIR was registered against the applicant.

2. Learned counsel for the applicant has argued that applicant has been singled out, although there were atleast 18 officers of the University involved in embezzlement; that applicant was forced to sign cheques on a gun point; that he had filed a constitutional petition before this Court against administration of the University and in order to settle score with him, this FIR has been registered against him; at the time of submission of Challan learned Magistrate referred the matter to Anti-Corruption Court and Anti-Corruption Court had directed Circle Officer for conducting further inquiry and proceedings, hence the case against applicant is of further inquiry and he is entitled to bail. In support of his arguments he has relied upon *1996 P.Cr.L.J. 1818 (Bago and 2 others versus The State)* and *2011 SCMR 1708 (Riaz Jafar Natiq versus Muhammad Nadeem Dar and others)*.

3. Learned counsel for complainant and learned Assistant Prosecutor General have opposed this relief to him on the ground that applicant had voluntarily issued cheques in favor of the University. In the inquiry he was found guilty and involved. That there are sufficient grounds to believe that he has committed the offence.

4. I have considered submissions of parties and perused material available on record including the case law. At the very onset it may be stated that bail application is to be decided on the tentative assessment of material made available. And while deciding entitlement of an accused to pre-arrest bail alongwith the merits element of malafide on the part of complainant to implicate him falsely is also to be considered simultaneously. Here against the applicant, no such element on the part of complainant can be even alluded. He is an official of the University and has registered FIR against the applicant on its behalf. Applicant in inquiry was found guilty of embezzlement and dismissed from service. He allegedly became ready to return amount voluntarily which dissuaded the University from taking any penal action against him. However, the cheques issued by him to offset his liability were dishonored. And only then the FIR was registered against him. Learned counsel's argument that embezzlement is a separate from liability cannot be attended to at this point in time while deciding his right to pre-arrest bail. It requires deeper appreciation of material and is a course not related to the rules governing entitlement of an accused to bail. If no action by the University was taken against the applicant on his indulgence in corruption and corrupt practices would not mean that he could be relieved of his action of issuing cheques dishonestly to the University to settle his liability which were dishonored.

5. Besides merits, as noted above, there is no malafide on part of complainant to implicate applicant in the case to entitle him to extra-ordinary concession of pre-arrest bail. The case laws cited by learned counsel for the applicant are distinguishable and do not attract facts involved in the present case. Accordingly, this bail application is dismissed and ad-interim pre-arrest bail granted to the applicant vide order 28.01.2021 is hereby recalled.

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

JUDGE