

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

Criminal Bail Application No.S-83 of 2020.
Criminal Bail Application No.S-86 of 2020.

DATE	ORDER WITH SIGNATURE OF JUDGE
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20-04-2020

Mr. Muhammad Hashim Laghari, advocate alongwith the applicants.

Ms. Safa Hisbani, Assistant Prosecutor General, Sindh.

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Applicants are seeking pre-arrest bail in Crime No.02/2020, under sections 408, 406, 420 PPC, registered at P.S. A-Section, Tando Allahyar.

2. Complainant namely Abdul Hameed being Vigilance and Investigation Officer in Telenor Micro Finance Bank Head Office Karachi on receiving complaints regarding fraud committed in Telenor Bank Tando Allahyar Branch designated Hyder Raza, Risk Manager and Waseemul Hassan, Risk Officer for conducting an inquiry. They reported that Manager Noman Shaikh and Deputy Manager Ali Asghar (applicant) have not deposited amount of installments paid by the loanees in the bank and had given loan to ghost loanees by preparing fake files with connivance of applicant Ali Madad Lund who who acted as an agent and lured the villagers into taking loan of Rs.100,000/- (one lac) but in fact they were given only Rs.5,000/- and remaining amount was distributed by the applicants and other co-accused. It has been concluded in the inquiry that the applicants and other accused have caused a loss of Rs.15,670,000/- (fifteen million six hundred seventy thousand rupees) to the bank.

3. After usual investigation, the challan was submitted and applicant Ali Madad was released under section 497 Cr.P.C. on the ground that no evidence of his connivance with the bank officials has been found. However, the learned Magistrate did not agree with such opinion and took cognizance of offence against him.

4. Learned Defence counsel has argued that the applicants are innocent and have been false implicated in this case; that no evidence has been collected against them; that applicant Ali Madad has nothing to do with the bank and no evidence is available against him except a word of the complainant; that even against applicant Ali Asghar nothing incriminating has come on record and he has been

made scapegoat at the place of real culprits who have been let off; that offence does not fall within the prohibitory clause of section 497 Cr.P.C. and investigation has been completed, the applicants are no more required for further investigation.

5. On the other hand learned Assistant Prosecutor General has opposed grant of bail to the applicants.

6. I have considered submissions of parties and perused the material available on record including the police papers which contain a preliminary investigation/ inquiry report prepared by PW Haider Ali and Waseem Ul Hassan who were assigned the enquiry by the complainant. It bears details in regard to the role of each accused and examination of the customers on whose names loan was taken. They have verbally confirmed the role of applicant Ali Madad acting as an agent/ intermediary introducing them to the bank officials and using their CNICs for obtaining loan of Rs.100,000/- each, but they were given Rs.5,000/- only, and the rest of amount distributed by the accused including applicant Ali Madad. In the said report it has also been verified that the agent / applicant Ali Madad used to collect installments directly from the customers which instead of being deposited against loan were being distributed by the accused among themselves. After FIR, the police started investigation and recorded statements of PWs namely Haider Ali and Waseem Ul Hassan who had conducted inquiry, they have prima facie supported the allegations against the applicants for committing fraud and embezzling Rs.15,670,000/- conjointly with other accused.

7. It may be stated that grant of pre-arrest bail is an extra-ordinary relief which is meant to protect innocent people from arrest and humiliation at the hands of police in the case in which they are falsely implicated out of malafide and ulterior motives. Such relief cannot be extended to the accused in every run of the mill case in absence of any material requiring further inquiry into the case or showing ill will on the part of complainant in registering case against them. Release of applicant Ali Madad by the police during investigation is of no consequence at bail stage as learned Magistrate on the basis of material available on record has disagreed with the opinion of police and taken cognizance of the offence against him. Such approach on the contrary prima facie lends credence to the allegations against him. This is a case involving crafty approach of all accused who in connivance with each other deprived not only the bank of its huge capital but have hoodwinked innocent villagers into submitting their CNICs which they misused. Such prima facie evidence in the shape of documents is available on record. No

case for extra-ordinary relief of pre-arrest bail is made out. Resultantly, both these bail applications are dismissed.

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

JUDGE

Irfan Ali