

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

1st Cr. Bail Appln.No.S- 215 of 2023.

1st Cr. Bail Appln.No.S- 220 of 2023.

Date	Order with signature of Hon'ble Judge
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1. For orders on office objection as flag A.
2. For hearing of bail application

23.10.2023.

Mr. Abdul Rehman Bhutto, advocate for the applicant
Muhammad Iqbal Channo.

Mr. Safdar Ali Ghouri, advocate for the applicant Mushtaque
Ahmed Jatoi.

Mr. Ali Anwar Kandhro, Addl. P.G a/w Insp. Zahid Bashir Khoso,
I.O.

ORDER

By this common order, I propose to dispose of these two bail applications bearing No.215 and 220 of 2023 as both have arisen out of Crime No.03 of 2019 of P.S ACE Jacobabad registered for an offence under Sections 161, 409, 420, 467, 468, 477-A, 34 PPC RW Section 5(2) Act-II of 1947. The case as reported has been challaned which is now pending for trial before the Court of Special Judge, Anticorruption (Provincial), Larkana vide Special Case No. Nil of 2023 re: State v. Mushtaque and others. The applicants preferred their respective bail applications before the Court below which, by virtue of its common order dated 16.4.2023, were declined, hence these bail applications.

2. Since the facts of the prosecution case are already mentioned in the FIR as well as impugned order, there is no need to reproduce the same.


3. Learned counsel submits that at the time of occurrence the applicants were posted as Mukhtiarkar and allegations against them is that they had issued certain tokens in respect of different khatedars/flood affectees, however, they had not misused the fertilizer as claimed by the prosecution as the stock of fertilizer was lying in custody of co-accused Abdul

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Rasheed who was posted as Assistant Director Agriculture, Thul. They further submit that co-accused Abdul Rasheed has been granted pre arrest bail by the trial Court in terms of its order dated 28.9.2023. In support of their contentions, the learned counsel have placed on record true copy of bail order of co-accused Abdul Rasheed under the cover of statement, which is taken on record. They further submit that the allegations against the applicants was that they issued tokens and as far as embezzlement is concerned, the same has not been done by them as the fertilizer was in custody of co-accused who has been granted bail. They lastly argued that during investigation the case was disposed of by I.O under 'C' Class but the trial Court by not concurring with the police report, took cognizance against them and directed the I.O to submit charge sheet against them, hence the case against the applicants requires further enquiry.

4. Learned Addl. P.G submits that no material has been brought on record, therefore, this being case of further enquiry, he does not oppose the bail applications.

5. Heard arguments of learned counsel for the applicants and perused the record. Admittedly per prosecution allegations the role attributed to the applicants is that they being Mukhtiarkar had issued tokens in favour of different khatedars and upon receipt of said tokens they obtained the fertilizer from the co-accused Abdul Rasheed who was holding the custody of the same and therefore, the question of embezzlement to the extent of present applicants is yet to be established by the prosecution after recording of evidence of its witnesses. The co-accused Abdul Rasheed has also been granted bail and the case of applicants is at par with him, hence the law of parity does attract. Applicants are government servants therefore, question of tampering with the prosecution evidence or absconding away does not arise. Moreover the applicants after furnishing surely have not misused the concession of interim pre arrest bail extended to them, hence the case against them requires further enquiry.



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6. The upshot of the above discussion is that the applicants have successfully made out case for pre arrest bail, same are allowed. Resultantly the interim pre arrest bail already granted to the applicants vide order dated 20.4.2023 and 02.5.2023 respectively are hereby confirmed on the same terms and conditions. Since entire evidence of the prosecution is based upon documents which are lying with the prosecution, therefore, trial Court is directed to expedite the trial and conclude the same in shortest possible time under intimation to this Court through Additional Registrar.

Shahar

JUDGE