

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
 CIRCUIT COURT, HYDERABAD.**
 Cr. B.A. No.S-931 of 2015.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

Date of hearing & order: 21.09.2015.

Mr. Nisar Ahmed Durrani, Advocate for the applicant.

Mr. Shahid Ahmed Shaikh, A.P.G. alongwith Khuda Bux Leghari
 C.O. ACE Umerkot.

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NAZAR AKBAR, J.- Through instant application, applicant Anwar Ali, who is involved in Crime No.01/2015, registered with Police Station ACE Umerkot, under sections 409, 420, 218, 465, 468, 471, 477-A, 34 PPC read with section 5(2) Act-II 1947 PCA, seeks post-arrest bail.

2. Facts of the case in brief, are that applicant Anwar Ali, who is Field Officer in Water Management Department, alongwith his other companions obtained NICs of the members of Organization/Society and after opening joint account in the Bank to operate debit and credit, misappropriated the funds received from the Government for construction of watercourses under the Water Management Department and caused heavy loss to the Government exchequer. Thereafter, under the orders of Chairman Enquiries & ACE, Services General Administration & Cooperation Department, Government of Sindh, complainant lodged the present F.I.R.

3. Learned counsel for the applicant submits that the applicant has falsely been implicated in the present case with malafide intention

and ulterior motive; that the applicant has not committed the alleged offence; that the F.I.R. is delayed for about 03 years and 05 months and no plausible explanation has been furnished by the prosecution for such a long delay; that no specific role has been assigned to the applicant in the F.I.R; that the applicant has been involved in the present case due to enmity with applicant Mocharo; that co-accused Rano Mal has been granted interim pre-arrest bail by this Court; that the case of the applicant requires further inquiry.

4. Learned A.P.G. opposed the bail application.

5. I have heard the parties counsel and perused the record carefully.

6. The alleged offence does not fall within the prohibitory clause of section 497 Cr.P.C; that the present F.I.R. was lodged after a delay of about 03 years and 05 months and no plausible explanation has been furnished by the prosecution for such delay; that on the face of it the F.I.R. appears to be lodged with malafide; that possibility existed that during such a long period of 03 years and 05 months the evidence might have been tampered with or exploited; that the prosecution case depends upon documentary evidence and the conclusion of investigation in such type of cases usually takes time; that the applicant is behind the bars since his arrest and in case bail is granted he may join investigation as and when required by the prosecution; that it is yet to be seen at trial whether the applicant has committed the alleged offence or not, therefore the case of the applicants requires further inquiry as envisaged under section 497(2) Cr.P.C. In the facts and circumstances of the case applicant is entitled for bail subject to furnishing surety equivalent to the alleged embezzled amount as mentioned in the F.I.R. For ready reference reliance is placed on **Shamraiz Khan v. State (2000 S C M R 157)**.

6. Above are the reasons of short order dated 21.09.2015, whereby the applicant was granted bail subject to furnishing solvent surety equivalent to the amount of alleged embezzlement shown in the F.I.R.

7. The observations made herein above are tentative in nature and the trial Court shall not be influenced upon by any of the same while deciding the main case on merits.

Dt:29.09.2015.

JUDGE

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