

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 215 of 2022

Applicant : Ishtiaque s/o Mansha Masih, through
Mr. Meer Ahmed Mangrio, advocate

Respondent : The State, through Mr. Faheem Hussain
Panhwar, D.P.G.

Complainant : Muhammad Nabi s/o. Eid Muhammad,
through Mr. Imran Akmal, advocate

Date of hearing : 26.04.2022
Date of order : 26.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Applicant/accused Ishtiaque s/o Mansha Masih through instant Cr. Bail Application, seeks pre-arrest bail in Crime No. 1444 of 2021 registered under section 489-F, P.P.C. at P.S. Shahrah-e-Faisal, Karachi. His earlier application for the same relief bearing No. 6422/2021 was dismissed vide order, dated 21.01.2022, by the learned Addl. Sessions Judge-IV, Karachi-East. He was admitted to interim pre-arrest bail by this Court vide order, dated 01.02.2022, now the matter is fixed for confirmation of the same or otherwise.

2. It is alleged that the applicant issued a cheque, dated 10.08.2021, to the complainant, amounting to Rs. 3,000,000/- to repay his liabilities in respect of articles purchased by him from the complainant, which was dishonored by the bank on being presented.

3. Heard and record perused.

4. As per F.I.R., the complainant deals in electronics, who delivered dowry articles for the marriage of the applicant's daughter, amounting to Rs.4,45,000/- for that the applicant paid Rs,1,00,000/- and for the balance amount, he issued the alleged cheque. It is case of the complainant that he provided dowry articles on installment basis. Contrary to the case of the complainant, it is stance of the applicant that he never bought any article from the complainant for the marriage of his daughter and infact his daughters are too minors to marry. It is also stance

of the applicant that he issued alleged cheque to one Abdul Ghaffar Khan, who is father-in-law of the complainant and a well-known money lender of Kotri, Distract Jamshoro, as security for the amount which he borrowed from him on interest basis, which amount he had already paid but Abdul Ghaffar Khan started harassing him and demanded more amount. In this regard, the applicant already filed an application under section 22-A & B, Cr.P.C. bearing No. 369/2020 wherein the Addl. Sessions Judge, Jamshoro vide order, dated 20.06.2020, directed to S.H.O. P.S. Jamshoro to provide legal protection to applicant; thereafter, the complainant malafidely misused the alleged cheque and lodged the F.I.R.. Hence, it is yet to be determined at trial if the applicant issued the alleged cheque to complainant towards fulfillment of his any obligation. The offence under section 489-F, P.P.C. is though non-bailable but does not fall within the prohibitory clause of section 497, Cr.P.C. Prima facie, section 489-F, P.P.C. is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. It is only to determine the guilt of a criminal act and award of a sentence, fine or both as provided under section 489-F, P.P.C. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception. Accordingly, the interim bail already granted to the applicant is confirmed on same terms and conditions.

5. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law

Cr. Bail Application stands disposed of.

JUDGE

