

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.515 of 2025

Applicant : Muhammad Farhaj Khan Sherwani S/o
Abdul Qayyum Khan Sherwani
through Mr. Ali Akbar Kamboh, Advocate

Respondent : The State
Through Ms. Rahat Ahsan, Addl. P.G.,
Sindh

Date of hearing : 13.03.2025

Date of order : 13.03.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.308/2024 for the offence under Section 489-F PPC registered at PS Clifton, after his bail plea has been declined by the learned District & Sessions Judge, Karachi South vide order dated 11.10.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, the applicant is innocent and has falsely been implicated in this case; that in fact applicant is a friend of complainant and he took loan for start-up of his own business; that the complainant demanded his money back just after two months of his business; that the applicant is ready to pay Rs.250,000/- to the complainant in Court and for remaining amount, he wants to pay the same through installments. Lastly, he prays for confirmation of bail to the applicant.

4. On the other hand, Ms. Kooni Wahid Bhutto, Advocate files Vakalatnama on behalf of the complainant, taken on record. She opposes for confirmation of bail; however, when she was asked as to whether the complainant agrees with the payment plan of the applicant, she categorically refused. Learned Addl. P.G. has also opposed for grant of bail.

5. Heard arguments and perused the record.

6. The case of the prosecution is that the complainant has given an amount of Rs.48,50,000/- to the applicant on credit and he pledged that he would return the aforesaid amount in two months. The applicant also issued two cheques amounting to Rs.30,00,000/- and Rs.10,00,000/- respectively to the complainant, however, when the same cheques were deposited, they became dishonoured. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, the applicant knowingly issued the said cheques that he had no sufficient amount; as such, he has also committed offence of cheating and fraud with the complainant. The applicant has also not denied issuance of his cheque as well as from his signature. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of '**Rana Abdul Khaliq v. The STATE and others**' [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 27.02.2025 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA