

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3020 of 2024

Applicant : Muhammad Anees S/o Muhammad Saghir
None present.

Complainant : Mst. Tasmina Jalil W/o Umair Arif
Present in person.

Respondent : The State
through Ms. Seema Zaidi, DPG

Date of hearing : 28.02.2025

Date of order : 28.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.141/2024 for the offence under Section 489-F PPC registered at PS Bahadurabad, after his bail plea has been declined by the learned IVth Additional Sessions Judge, Karachi East vide order dated 12.07.2024.

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. Applicant and his counsel are called absent. No intimation is received. On last date of hearing, the matter was adjourned for today in presence of the applicant and his counsel. The instant bail was presented 21.12.2024 and on 31.12.2024, the applicant was granted interim pre-arrest bail, since then the matter is pending without any progress. In such situation, complainant is directed to read over the FIR and proceed with the matter. She submits that applicant has issued a cheque of Rs.5 lacs in lieu of his liability but the same was bounced due to stop payment; as such, he is very much involved in this case. Learned DPG also opposes for bail.

4. Heard and perused.

5. Admittedly, complainant invested an amount of Rs.20 lacs with the applicant by a written agreement that the applicant would pay her profit on the said amount; however, after three months, the applicant stopped giving profit amount so also avoiding to pay the invested amount to the complainant,. Thereafter, on the insistance, the applicant has issued a cheque amounting to Rs.500,000/- to the complainant, which became dishonoured due to stop payment. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, the applicant knowingly issued the said cheque 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.

6. 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.

7. 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 31.12.2024 is hereby recalled.

8. 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