

IN THE HIGH COURT OF SINDH, AT KARACHI

Crl. Bail Application No.1021 of 2025

Date

Order with signature of Judge

For hearing of bail application.

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25.06.2025.

Mr. Wajahat Naseem Khan, Advocate for applicant.

Mr. Sher Asif Khan, Advocate for complainant.

Ms. Rubina Qadir, Deputy Prosecutor General.

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Muhammad Jaffer Raza, J:- Muhammad Yaqoob son of Allauddin Javed, applicant, seeks pre-arrest bail in Crime No.173 of 2025 registered at Police Station Gadap City Malir, Karachi, for offence under Sections 489-F, PPC, after the same was declined by the learned Additional Sessions Judge-VII, Malir, Karachi, by an order dated 17.04.2025.

2. FIR in this case has been lodged on 13.03.2025, whereas, the incident is shown to have taken place on 10.02.2025. It is alleged in the FIR that the complainant booked a shop in the project in the name and style of BR residency in the total sum of Rs.179,298,000/- (Seventeen million nine hundred twenty-nine thousand two hundred rupees) and paid 40% of the amount as down payment and advance installment to the builder. It is contended in the FIR that the builder/Applicant informed the complainant about the cancellation of the project and offered to return the money. In this regard, the Applicant gave three post-dated cheques amounting to Rs. 1,400,000/- each and the same were returned due to insufficient funds.

3. The learned counsel for the applicant mainly argued that there is a business transaction between the parties and the story, as narrated in the FIR, is false and concocted. Learned counsel has further submitted that there is a delay of about 27 days in lodging of FIR without furnishing any plausible explanation. Further it is averred that the alleged offence does not fall within

the prohibitory clause. It was further argued that the investigation has been completed and the applicant is no more required for further investigation. The learned counsel lastly submits that the case of the applicant requires further inquiry, therefore, he may be enlarged on bail.

4. Conversely, learned counsel for the complainant has argued that the cheque issued by the applicant was dishonoured on presentation before the concerned bank, which shows clear malafide on the part of the applicant; that the transaction relates to huge amount payable to the complainant, hence he does not deserve concession of bail at this stage.

5. The learned Deputy Prosecutor General has supported the arguments advanced by the learned counsel for the complainant and opposed the grant of bail to the applicant.

6. Heard learned counsel for the respective parties' and perused the entire material available before me with their able assistance.

7. Admittedly, the incident as is evident from the FIR is said to have taken place on 10.02.2025, whereas, report thereof was lodged on 13.03.2025 after a delay of (27) Twenty-Seven days and that too without furnishing any plausible explanation. The Hon'ble apex Court in a number of cases has held delay in lodging of FIR to be fatal for prosecution case, at least for the purposes of granting bail. Prima facie, mere issuance of cheque which is subsequently dishonoured does not constitute an offence under Section 489-F, PPC unless it is proved that the same was issued with dishonest intention for payment of dues or discharging of any obligation; all ingredients are required to be proved at trial. Reliance in this behalf may well be made to the case of *Nazir Ahmed alias Bhaga v The State and others* (2022 SCMR 1467). Besides, the offence with which the applicant is charged does not fall within the prohibitory clause. Insofar as the contention that the applicant is saddled with the responsibility of paying huge amount to the complainant, it is well settled principle of law

that the concession of bail is a procedural relief having nothing to do with the ultimate fate of the trial. If a person, otherwise is found entitled to the concession of bail, his liberty cannot be curtailed on the ground of the charge being of heavy amount.

8. For the foregoing reasons, I am of the view that the applicant has made out a case for grant of bail. I, therefore, allow this application and confirm the bail of the applicant on similar terms and conditions, however, the amount of surety is enhanced from Rs.100,000/- (Rupees One Lac Only) to Rs.500,000/- (Rupees Five Lacs Only) to the satisfaction of the Nazir of this Court.

JUDGE

Nadeem/PA