Order Sheet IN THE HIGH COURT OF SINDH AT KARACHI Cr. Bail Application No. 1523 of 2018

Date Order with Signature of Judge

FOR HEARING OF BAIL APPLICATION

Date of short order: 17.07.2019.

> Applicant Khusro Mirza through M/s. Muhammad Mushtaq and Wajid Hussain, advocates.

State through Mr. Sagheer Ahmed Abbasi, APG.

ORDER

FAHIM AHMED SIDDIQUI, J:-The applicant is seeking prearrest bail in case registered against him at PS City Courts through F.I.R. No. 151/2018 under Section 489-F PPC. The applicant succeeded in getting prearrest bail vide Order dated 13-11-2018 after rejection of similar plea from the lower forum.

- 2. The learned advocate for the applicant as well as learned APG argued at length. In the light of their arguments and citations, I have observed as under:
 - a) The allegations against the applicant are that he has participated in an auction proceeding conducted by the Nazir of Judicial District, Karachi South as per direction of executing Court i.e. the Court of Senior Civil Judge Karachi South in respect of Bunglow No. 22/1, Khayaban-e-Baharia, DHA-V, Karachi. He has given the highest bid and handed down a cheque bearing No. CA-0099263722 of Faisal Bank, Shaheed-e-Millat Road, Karachi dated 04-08-2018 amounting to Rs. 1,76,25000/- as 25% of hammer-down auction amount. The said cheque was presented through banking channel and the same was bounced.
 - b) It does not make a ground for bail that the cheque was deposited in DDA account instead of Nazir account, as in District Courts there is DDA accounts of the Courts operated by Judges.

- c) The contention of learned counsel for the applicant is that the cheque was given as surety but such argument is not acceptable, as the Courts never accept cheques as surety and there is no question of surety in an auction proceedings.
- d) The applicant has participated in the auction proceedings and handing over the cheque as 25% of his offered price, and nothing on the record to show that prior to lodgement of F.I.R., he has withdrawn his offer or preferred any request before the executing Court for his inability to purchase the property.
- e) The cheque was given by the applicant to a Court as a successful bidder, as such it was in respect of a future obligation created in respect of the auction proceeding in which he has participated.
- f) The cheque was given as 25% of auction price offered by him but subsequently, it could not be negotiated and the applicant never contacted the Presiding Officer or Court staff regarding the same, which attracts dishonesty on the part of applicant.
- g) In the present scenario, neither the F.I.R. can be termed as false or fabricated nor there is any question of malice and ulterior motive, as such no ground of extending extraordinary relief be available in favour of the applicant.
- 3. In view of the above observations, I am of considered opinion that no case of bail has been made out in favour of the applicant. Hence, the instant bail application is denied and the interim relief extended to the applicant through order dated 13-11-2018 is recalled through my short order dated 17.07.2019 and these are the reasons for the same.
- 4. Before parting, I would like to make it clear that the above observations are purely tentative in nature, and the same are pen-downed only for the purpose of disposal of the instant pre-arrest bail application, as such the same would have no bearing on either party's case during trial.

	JUDGE
Dated:	