

IN THE HIGH COURT OF SINDH, KARACHI

Cri. Bail Appln. No. S – 872 of 2020

Mustafa Haider.....Applicant

Versus

The State.....Respondent

Date of Hearing & Short Order 28.07.2020

Mr. Tariq Mehmood, advocate for the applicant
Mr. Tanveer Hussain, advocate for the complainant
Syed Meeral Shah, APG for State

ORDER

Fahim Ahmed Siddiqui, J: This order will dispose of the instant post arrest bail application for the applicant Mustafa Haider son of Urooj Haider. The applicant is seeking his release on bail in a case registered against him at PS Ferozabad, Karachi vide Crime No.252/2020 under Sections 489-F, 420, 34 PPC.

(2) I have heard the arguments advanced and perused the record produced before me. From hearing of arguments at bar and perusing the record placed before me, I have observed as under:

(a) The allegations against the applicant are that the complainant gave Rs.40,00,000/- to the applicant from 2005 in different instalments for business purpose to be paid profit accrued thereon but neither the profit was paid nor the said amount was returned to the complainant and on repeated demands, the applicant issued a cheque of such amount dated 09.03.2020, which was dishonoured on deposit.

(b) Record shows that there is a delay of two months in lodging of FIR, which is not plausibly explained by the complainant.

(c) Learned counsel for the applicant submits that no legal notice has been served as prescribed under Section 30 of Negotiable Instruments Act.

(d) Alleged cheque was not signed by the applicant so also the bank account was inoperative when the alleged cheque was deposited and this fact is also confirmed by the memo of bank. Co-accused who is father of the applicant was granted bail.

(e) Contention on behalf of the complainant is that there were two sale agreements (1) dated 12.01.2011 and (2) 12.10.2017 but on perusal of such agreements, it appears that none of both agreements discloses name of the complainant as party thereof.

(f) It appears that the complainant is using the criminal case as leverage for recovery of such amount payable to him by the applicant. **Nevertheless, it is not the purpose of criminal law where the aim is punishment to the offender and not to the recovery of payment.**

(3) In view of the above discussion, it is my considered opinion that a case of bail has been made out for the applicant, as such he was admitted to bail subject to furnishing surety of Rs.1,000,000/- (Rupees one million) only and PR bond in the like amount up to the entire satisfaction of the trial Court.

(4) I would like to further observe that if after getting bail, the applicant becomes absconder from the trial, then the trial Court will be fully justified in taking every action against the applicant and his surety including cancellation of bail without making a reference to this Court.

J U D G E