

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.1711 of 2021**

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<i>Date</i>	<i>Order with signature of Judge</i>
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*For hearing of Bail Application.*

**07.02.2022**

Mr. Muhammad Umar Panhwar, Advocate a/w Applicant (on bail).  
Mr. Zahoor Shah, Deputy Prosecutor General, Sindh.  
Mr. Ishfaque Ahmed Buriro, Advocate for the Complainant.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicant Muhammad Faisal seeks his admission on pre-arrest bail in Crime No.682/2021 of Police Station Aziz Bhatti, Karachi, under Section 489-F/420 PPC. The applicant preferred his anticipatory bail before the Court of Sessions wherefrom it was assigned to 8<sup>th</sup> Addl. Sessions Judge, Karachi (East) vide Criminal Bail Application No.3794/2021 (re-Muhammad Faisal Versus The State), who after hearing the parties, has turned down his request through order dated 04.09.2021; hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. **Heard arguments and perused record.** Admittedly, the cheques in question were issued by one Farhan, brother of present applicant, who has not been arrested by the police and is still at large. The contention of learned counsel for the complainant to the effect that prior to this FIR present applicant issued a cheque of Rs.49,00,000/- in favour of the complainant which too was bounced and to such effect FIR No.398/2019 with P.S Nabi Bukhsh, Karachi, under Section 489-F PPC was lodged. Such case was challaned and tried by the Court of 11<sup>th</sup> Judicial Magistrate, Karachi (South) vide Criminal Case No.304/2020 (re-the State Versus Muhammad Faisal). In that case, applicant and complainant Irfan had entered into compromise through agreement and in consequence applicant

issued a series of cheques and present cheques are one of them; hence, he is liable to be prosecuted and is required to pay the liability. The contention so raised by counsel for the complainant carries no weight as it is settled law that no recovery should be made or effected under Section 489-F PPC. Moreover, earlier transaction vide Criminal Bail Application No.304/2020 has already been ended in acquittal of the applicant through mutual consent viz. compromise under Section 345 Cr.P.C. Learned counsel for the complainant submits bunch of documents under the cover of his statement dated 07.02.2022, same are hereby taken on record.

4. Since, in present case cheque was issued by one Farhan, who is not before the Court and allegation against the applicant is that he is the main culprit on whose behalf cheque was issued by his brother. Such controversy is yet to be decided by the trial Court after recording evidence of the parties. The offence with which applicant stands charged, carries maximum punishment up to three years and the trial has also commenced, therefore, case against him, in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in cases of (i) *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicant **Muhammad Faisal son of Abdul Rauf** on 08.09.2021 is hereby confirmed on same terms and conditions.

5. Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

6. Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.P.C. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

7. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

**JUDGE**