

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No. 126 of 2022

Date	Order with Signature(s) of Judge(s)
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For hearing of bail application.

21.02.2022

Mr. Muhammad Asif, Advocate for applicant/accused
Mr. Shams-ul-Hadi, Advocate for complainant.
Mr. Syed Meeral Shah, Additional Prosecutor General.

Through instant criminal bail application, applicant/accused Muhammad Iqbal s/o. Taj Muhammad seeks post arrest bail in Crime No. 278/2021, registered under section 489-F, P.P.C. at P.S. Airport, Karachi. His earlier applications for the same concession were heard and dismissed by the learned 1st Judicial Magistrate, Malir and IVth Additional Sessions Judge Malir, Karachi, vide orders dated 24.12.2021 and 05.01.2022, respectively.

2. As per F.I.R., the allegation against the applicant is that he issued a post-dated cheque to complainant amounting to Rs.12,00,000/- which was dishonored on 15.07.2021 on being presented in bank for encashment.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case; that the applicant is merely a commission agent he has no direct or indirect concern with the complainant; that the subject cheque, being open cheque, was issued by the applicant for security purpose subject to settlement of account, and then he paid the amount to third party on the request of the complainant but he did not return security cheque(s) to applicant despite his requests and later he malafidely misused the same and lodged a false F.I.R.

4. On the other hand, learned counsel for the complainant as well as Addl. P. G oppose grant of bail to applicant on the ground that the subject cheque pertains to his account and the same was dishonored due to insufficient fund in the account; that the applicant dishonestly issued the

subject cheque knowingly that it would be dishonored on being presented in bank for want of sufficient fund.

5. Heard the learned counsel for the applicant, complainant as well as Addl. P.G. and perused the material available on record.

6. As per F.I.R., the complainant serves in PIA while the applicant owns MIC Construction Company and got a contract of construction of Women Hostel in Karachi Police Training Centre. The complainant, at the request of applicant and his son Barkatullah lent Rs. 35,00,000/- from 01.12.2020 to 15.12.2020 on profit basis. Besides, the complainant paid cash amount to site engineer Daniyal Saqib and provided block and mixture machines; for that Barkatullah handed over him subject cheque of his father/applicant. Hence, it is an admitted position on the part of complainant that he had business relationship with the applicant; therefore, issuance of subject cheque with dishonest intention is to be looked by the trial Court after recording pro and contra evidence of the parties. The alleged offence under section 489-F, P.P.C. does not fall within the prohibitory clause of section 497, Cr.P.C. Hence, the instant bail application is allowed by admitting the applicant to bail subject to his furnishing solvent surety in the sum of Rs.2,00,000/- and P.R. bond in the like amount to the satisfaction of trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits and if applicant in any manner tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

CrI. Bail application stands disposed of.