

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 1988 of 2021

Applicant : Haresh Kumar s/o Parshtoum, through
Mr. Saadat Hassan, advocate

Respondent : The State, through Mr. Faheem Hussain
Panhwar, D.P.G.

Complainant : Naresh Kumar Pirthiani, through
Mr. Wazeer Hussain Khoso, advocate

Date of hearing : 08.03.2022
Date of order : 08.03.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Haresh Kumar s/o Parshtoum has sought pre-arrest bail in Crime No. 732/2021, registered under section 489-F, P.P.C. at P.S. Boat Basin, Karachi. His earlier application for the same concession bearing No. 3385/2021 was dismissed by the learned Xth Additional Sessions Judge, Karachi-South vide order dated 13th October, 2021. He was granted interim pre-arrest bail by this Court, vide order dated 21.10.2021 subject to furnishing solvent surety in the sum of Rs. 50,000/= to the satisfaction of the Nazir of this Court, now the matter is fixed for confirmation of interim bail or otherwise.

2. As per F.I.R., complainant Naresh Kumar Pirthiani gave an amount of Rs. 13,00,000/= to the applicant for his business, on a promise that he would return the amount within a period of 5/6 months; however, he kept him on false hopes and later on issued a cheque to the complainant, bearing No. GA 45601176 of Soneri Bank, amounting to Rs. 13,00,000/=, which was dishonored by the bank on being presented for encashment, for that the aforesaid F.I.R. was lodged by the complainant.

3. After hearing the learned counsel for the parties as well as learned D.P.G. and perusing the material available on record, it appears that as per his

own version, the applicant used to serve with complainant as his manager. The offence under section 489-F, P.P.C. is though non-bailable but does not fall within the prohibitory clause of section 497, Cr.P.C. Prima facie, section 489-F, P.P.C. is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. It is only to determine the guilt of a criminal act and award of a sentence, fine or both as provided under section 489-F, P.P.C. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception.

4. Apprehension of the complainant regarding absconding of the applicant from trial may be removed if the surety amount is enhanced; hence, the interim bail already granted to the applicant is confirmed subject to his furnishing additional surety for an amount of Rs.2,50,000/- with the Nazir of this Court within two weeks hereof. In case the applicant fails to furnish additional surety within the stipulated period, this Cr. Bail Application shall automatically stand dismissed.

Cr. Bail Application stands disposed of.

JUDGE

Athar Zai