

**IN THE HIGH COURT OF SINDH, AT KARACHI**

**Cr. Bail Application No. 357 of 2022**

Applicant : Farrukh Zaman Khan s/o. Afzaal Zaman  
Khan, through Syed Nadeem-ul-Haq, advocate

Respondent : The State, through Ms. Rahat Ehsan, Addl. P.G

Complainant : Ghayasuddin s/o Mairajuddin, through  
Mr. Attaullah Abbasi, advocate

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Date of hearing : 28.04.2022

Date of order : 28.04.2022

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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Farrukh Zaman Khan s/o Afzaal Zaman seeks post-arrest bail in Crime No. 159/2020, registered at P.S. Paposh Nagar, Karachi under section 489-F, 420, 419, P.P.C. His first bail application bearing No. 19/2021 was dismissed by the learned VI<sup>th</sup> Judicial Magistrate, Karachi-Central vide order, dated 02.04.2021, whereafter he filed second bail application bearing No. 738/2021 before the learned Sessions Judge, Karachi-Central, which was also dismissed by the learned Additional Sessions Judge-VII/M.C.T.C.-02, Karachi-Central vide order, dated 13.04.2021; after that he filed 3<sup>rd</sup> Bail Application bearing No. 666/2021 before this Court, which was also dismissed as not pressed vide order, dated 21.10.2021, with direction to the trial Court to conclude the trial within a period of two months with observation that the applicant may file fresh bail application if trial Court fails to conclude the trial within the stipulated period; thereafter he moved 4<sup>th</sup> bail application bearing No. 10/2021 before the learned Consumer Protection Court/Judicial Magistrate, Karachi-Central, which was also dismissed vide order, dated 29.11.2021, whereafter he filed 5<sup>th</sup> bail application bearing No. 2670/2021 before the learned Sessions Judge, Karachi-Central, which was also dismissed by the learned Additional Sessions Judge-VII/M.C.T.C.-02, Karachi-Central vide order, dated 10.12.2021; hence, instant Cr. Bail Application.

2. It is alleged that the applicant issued three cheques to the complainant; however, the same were dishonored on being presented for encashment, for that he was booked in the aforesaid F.I.R.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case by the complainant; that the offence under section 420 is bailable, while offences under section 489-F and 419, P.P.C. do not fall within the prohibitory clause of section 497, Cr.P.C.; that the applicant is behind bars since day of his arrest 21.03.2021; however, the trial has not yet been concluded as the prosecution failed to produce a single witness before the trial Court for recording evidence; that delay in conclusion of the trial is not on the part of the applicant; that the applicant is suffering from multiple diseases and he cannot be kept behind bars for an indefinite period without any fault; hence, he is entitled to the concession of bail. In support of his contentions, learned counsel relies upon the case of *Jamsheed Ali v. The State* (2012 P.Cr.L J. 1022).

4. On the other hand, learned counsel for the complainant as well as learned Additional Prosecutor General oppose the grant of bail to applicant on the ground that so far the merit of the case is concerned, the earlier bail applications filed by the applicant have been dismissed by the Courts below and by this Court also, while the delay in trial has not caused because of the prosecution but of the applicant; hence this application merits dismissal.

5. Heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears that aforementioned 3<sup>rd</sup> Bail Application of the applicant bearing No. 666/2021 was dismissed by this Court as not pressed vide order, dated 21.10.2021, with direction to the trial Court to conclude the trial within a period of two months with observation that the applicant may file fresh bail

application if trial Court fails to conclude the trial within the stipulated period. Record shows that the charge was framed against the applicant by the trial Court on 14.10.2021; thereafter, from 25.10.2021 to 19.02.2022 (*upto date of filing of instant bail application*), the trial Court fixed the matter on 17 dates of hearing for recording evidence. During said period, the applicant at least changed his counsel thrice, (02.11.2021, 14.12.2021 and 18.01.2022) and the matter was adjourned on at least six dates of hearing (25.10.2021, 25.11.2021, 29.12.2021, 05.01.2022, 10.01.2022 and 17.02.2022) for want of appearance of defendant counsel. As such, the trial Court could not conclude the trial within stipulated period on account of act and omission on the part of the applicant and his counsel. Hence, instant criminal bail application is dismissed.

JUDGE

*Athar Zai*