

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 1704 of 2021

Applicant : Muhammad Sajid s/o Muhammad Sadiq,
through Mr. Farooq H. Abbasi, advocate

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

Date of hearing : 21.03.2022
Date of order : 21.03.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Muhammad Sajid s/o Muhammad Sadiq seeks pre-arrest bail in Crime No. 551 of 2021 registered under Section 420, 489-F, P.P.C. at P.S. Shah Faisal Colony, Karachi. His earlier bail application for the same relief bearing No. 4119 of 2021 was dismissed by the learned Additional Sessions Judge-III, Karachi-East vide order, dated 03.09.2021. He was admitted to interim pre-arrest bail by this Court vide order, dated 06.09.2021, now the matter is fixed for confirmation of interim bail or otherwise.

2. It is alleged that, during the period of 23.01.2020 to 08.09.2020 applicant issued three cheques to the complainant amounting to Rs. 1,500,000.00 to repay his liabilities dealing in respect of purchasing of plots, which were dishonored by the bank on being presented.

3. Heard and record perused.

4. As per learned counsel for the applicant, the applicant had already paid an amount of Rs.11,00,000/- to the complainant against three cheques referred to in the F.I.R., which fact has been admitted by the complainant in his statement recorded in Cr. Case No. 2651 of 2021 by the learned trial Court i.e. XIth Judicial Magistrate, Karachi-East, while pay order of remaining amount i.e. Rs.400,000.00

has been deposited by the applicant with the Nazir of this Court, as per endorsement of Deputy Nazir available on record.

5. 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. Moreover, the interest of the complainant has already been secured, as contended by the learned counsel for the applicant, through depositing the balance amount by the applicant. Accordingly, the interim bail already granted to the applicant vide order dated 06.09.2021 is confirmed on same terms and conditions.

6. 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. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law

Cr. Bail Application stands disposed of.

JUDGE