

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 2412 of 2021

Applicant : Faisal Rehan s/o Akhtar Khan,
through Mr. Khawaja Saif-ul-Islam, advocate

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

Date of hearing : 22.03.2022
Date of order : 22.03.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Faisal Rehan s/o Akhtar Khan seeks pre-arrest bail in Crime No. 340 of 2021, registered under section 489-F, 420/34, P.P.C. at P.S. Malir Cantonment, Karachi. His earlier bail application for the same relief bearing No. 5509 of 2021 was dismissed by the learned Additional Sessions Judge-IV Malir, Karachi vide order, dated 20.12.2021. He was admitted to interim pre-arrest bail by this Court vide order, dated 23.12.2021, now the matter is fixed for confirmation of interim bail or otherwise.

2. It is alleged that, during the period of 05.07.2021 to 15.07.2021, co-accused Asjad Ahsan and Aamir Mehboob Shaikh handed over three cheques of the applicant to the complainant, amounting to Rs. 52,00,000/- to repay their liabilities in respect of their joint business with the complainant, which were dishonored by the bank on being presented.

3. Heard and record perused.

4. As per F.I.R., in the year 2018-19, the complainant had joint business of mangoes and oranges with co-accused Asjad Ahsan and Aamir Mehboob Shaikh. On closing of the season, the complainant asked them for settlement of account, on that they informed him that they had sustained loss in business and their payment struck in Masqat. Later, they paid Rs. 18,00,000/- to complainant and issued three cheques of their partner Faisal Rehan (*applicant*) amounting to total

Rs. 52,00,000/-, out of them, one cheque was of dormant account, while rest of two cheques were dishonored on account of stopping of the payment. It may be observed that the complainant has not alleged in the F.I.R. that he had ever made any payment in connection with alleged business with aforesaid co-accused to the applicant. Thus, prima facie it is yet to be proved if the applicant issued the alleged cheques to complainant towards re-payment of his loan or fulfillment of his obligation.

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. Accordingly, the interim bail already granted to the applicant vide order dated 23.12.2021 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