

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 70 of 2022

Applicant : Sohail Ahmed s/o Saleem Ahmed, through
Mr. Aijaz Ali Khan Kaim Khani, advocate

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

Complainant : Mukesh Kumar, through Mr. Ameet Kumar,
advocate

Date of hearing : 05.04.2022

Date of order : 05.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Sohail Ahmed s/o Saleem Ahmed seeks pre-arrest bail in Crime No. 944 of 2021, registered at P.S. Boat Basin, Karachi under section 489-F, P.P.C. His earlier bail application for the same relief bearing No. 4682 of 2021 was dismissed by the learned Sessions Judge, Karachi-South vide order, dated 11.01.2022. He was admitted to interim pre-arrest bail by this Court vide order, dated 18.01.2022, now the matter is fixed for confirmation of interim bail or otherwise.

2. It is alleged that the applicant obtained loan of Rs. 542,000.00 from the complainant for that he issued three cheques, which were dishonored by the bank on being presented.

3. Heard and record perused.

4. It appears that the complainant claims to have given an amount of Rs.5,42,000.00 to the applicant as loan; however, neither the date nor the mode of such payment or the purpose of loan have been mentioned by the complainant in the F.I.R. It further appears that the complainant claims that the applicant issued him three cheques but in F.I.R. he has given details of only two cheques amounting to Rs. 2,12,400/- and Rs. 3,30,000/- (total Rs. 5,42,400/-) ; hence, it is yet to be determined at trial if the applicant issued three cheques to complainant against repayment of a loan.

5. It may be observed that 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 18.01.2022 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

Athar Zai