

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 1639 of 2022

Date

Order with signature of Judge

For hearing of bail application.

12th October 2022

Mr. S.M. Nehal Hashmi, advocate for applicant/accused.
Ms. Seema Zaidi, Addl. P.G. Sindh.
Mr. Muhammad Ilyas Awan, advocate for the complainant.

Salahuddin Panhwar, J.- It is alleged that a cheque issued by applicant was bounced on its presentation, hence complainant lodged FIR No.271/2022 under section 489-F/420 PPC at PS Joharabad, Karachi.

2. Learned counsel for the applicant/accused submits that applicant is innocent and he has been falsely implicated in this case by the complainant; that no any amount is payable by the applicant to the complainant and the cheque in question was given as surety/guarantee and on demand the same was not returned to applicant/accused but complainant told him that the same has been lost; that the said cheque bounced due to stoppage by the applicant; that there is about 18 days delay in lodging of the FIR; that offence with which applicant/accused is booked is not falling within the prohibitory clause of section 497, Cr.P.C and that there is no previous criminal record, hence he prayed for grant of bail to the applicant/accused.

3. On the other hand, learned Addl. Prosecutor General Sindh duly assisted by learned counsel for the complainant supported the impugned order by stating that cheque duly issued by the applicant was bounced on presentation due to stoppage by the applicant, hence an offence under section 489-F PPC is made out; that delay in lodging of the FIR occurred as applicant thrice deposited the cheque on the direction of the applicant that it would be honoured but when finally it

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was bounced, the complainant lodged the FIR, therefore, prayer for instant bail application is made.

4. Heard learned counsel and perused the record.

5. Admittedly, the applicant has not denied issuance of the cheque as well as its bouncing due to its stoppage by him but claimed that it was issued as surety/guarantee, *prima facie*, no such proof in shape of document or fact has been placed on record, therefore, at this stage, oral submission of the applicant cannot be given credence. With regard to the argument of learned counsel for the applicant that there is no criminal record of the applicant, the same appears to be misconceived, as record reflects that a Criminal Complaint No. 186 of 2013 has also been filed by the NIB Bank Limited against the applicant for breach of an obligation, which was later on compromised between the parties.

6. The mere fact that the offence for which the applicant is charged does not attract the prohibitory clause of section 497, Cr.P.C. cannot per se make him entitled to the concession of bail. Grant of bail in such like cases is not a rule of universal application as each case merits decision on the basis of its own facts and circumstances. Reliance in this respect may advantageously be placed on the cases of **Muhammad Siddique v. Imtiaz Begum and 2 others (2002 SCMR 442)** and **Shameel Ahmed v. The State (2009 SCMR 174)**.

7. It is settled that for deciding the bail application the court has to observe the tentative assessment and deeper appreciation of evidence is not required and it will not be fair to go into discussion about the merits of the case at this juncture. Thus taking a tentative assessment of the available record, *prima facie*, the provision of section 489-F, P.P.C. is squarely attracted in the present case, therefore, the applicant is not entitled to the concession of bail at this stage of case. Accordingly, the bail plea is hereby **dismissed**. However, while parting the trial Court is directed to conclude the trial expeditiously.

7. Needless to mention that the above observations are purely tentative in nature and would not prejudice to the merits of case.

JUDGE