

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 1149 of 2020

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Date order with signature of Judge

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For hearing of bail application.

**30.11.2020**

Syed Ghulam Hasnain, Advocate a/w applicant.  
Mr. Talib Ali Memon, APG.

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Omar Sial, J: Syed Shah Ubaid-ur-Rehman has sought pre-arrest bail in crime number 91 of 2020 registered under section 489-F P.P.C. at the New Town police station. Earlier, his application seeking bail was dismissed by the learned 4<sup>th</sup> Additional Sessions Judge, Karachi East on 25-7-2020.

2. The background to the case is that Muhammad Ali Shamsi lodged the aforementioned F.I.R. on 3-3-2020 reporting an incident that had occurred on 19.9.2020. He recorded therein that he entered into an agreement to sell with the applicant for land for the total sale consideration of Rs. 17,500,000. A cheque of Rs. 2 million was given by the applicant to Shamsi and in lieu thereof Shamsi gave the applicant a file containing papers ostensibly of the land in question. The applicant after reviewing the file informed Shamsi that the papers in the file were incomplete. The cheque issued by the applicant bounced when presented at the bank counters.

3. I have heard the learned counsel for the applicant as well as the learned APG. None effected an appearance on behalf of the complainant despite notice. My observations are as follows.

4. A cursory look at the documents of title of the land in question appears to reflect that Shamsi was not the owner of the plot of land for which the agreement to sell was executed. His nexus with the plot remains unclear at this preliminary stage. It also is unclear why Shamsi would take a cheque of Rs. 2 million only when the sale consideration for the said plot was a lot higher. This fact raises the question as to the purpose for which the disputed cheque was

issued. It is unclear whether the same was issued for the fulfillment of a loan or satisfaction of an obligation. It is the learned trial court that will decide this issue after evidence is led. The learned APG confirms that there is nothing on the police file that evidences the transaction as alleged by Shamsi. Keeping the transaction in mind where a person who did not even have title to the plot of land has passed on a file of that plot to the applicant ostensibly also selling the plot of land to him or at least agreeing to sell it, malafide on the part of the complainant in such circumstances cannot be conclusively ruled out. An offence under section 489-F P.P.C. carries a potential sentence of 3 years and though not bailable falls under the non-prohibitory clause of section 497 Cr.P.C. No exceptional circumstances have been raised to justify refusal of bail to the applicant.

5. Above are the reasons for my short order of 17-11-2020.

JUDGE