

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2350 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

17-03-2023

Khawaja Muhammad Azeem, Advocate for applicant.
Mr. Muhammad Ibrar Arain, Advocate a/w complainant.
Mr. Muntazir Mehdi, Addl.P.G.

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Omar Sial, J: Mazhar Zaib has sought post arrest bail in crime number 834 of 2022 registered under section 489-F P.P.C. at the Gulistan-e-Johar police station. Earlier, his application seeking bail was dismissed on 01.12.2022 by the learned 4th Additional Sessions Judge, Karachi East.

2. A background to the case is that one Imran Razzaque complained to the police that the applicant was a salesman in his business and subsequently started working independently. The applicant purchased goods worth Rs. 59,926,765 from the complainant and started making re-payments in installments up to March 2020. The applicant then gave a cheque of Rs. 20,000,000 to the complainant, which cheque bounced when presented at the banks counters for clearance.

3. I have heard the learned counsels for the applicant and the complainant as well as the learned Addl.P.G. My observations and findings are as follows.

4. The applicant has already been in jail for approximately a 4 month period in a crime that carries a potential sentence of up to 3 years. There is no indication that the trial will conclude any time soon. Probably the applicant will undergo the entire sentence before even being adjudged guilty of the offence. Bail cannot be withheld as a punishment.

5. Though the complainant claims that the applicant is indebted to him for Rs. 59,926,765, his counsel has been unable to show to me even basic accounts to show that this money was indeed due. Learned counsel has attempted to explain that there are many facets to the money transactions. Be that as it may, this is something for the complainant to prove at trial through evidence. At the moment my attention has been drawn to an agreement at page 205 of the file which prima facie shows that the parties had acknowledged that there is no money due to the complainant from the applicant. The learned counsel for the complainant has submitted that the agreement is not in relation to the present dealings between the parties, however, admits that there is nothing in the said agreement which would prima facie support his argument. Whether or not the applicant issued the disputed cheque for the satisfaction of a loan or fulfilment of an obligation will have to be determined through evidence at trial.

6. As mentioned above, the offence for which the applicant is charged carries a potential sentence of up to 3 years. The offence is not bailable but its punishment falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping in mind the principles enunciated in the Tariq Bashir and 5 others vs The State (PLD 1995 SC 34) I do not see any exceptional or extraordinary reasons to deny him bail.

7. The applicant is admitted to bail subject to his furnishing a solvent surety in the sum of Rs. 500,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE