

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Cr. Bail Application No.S- 193 of 2023

20.03.2023.

Barrister Haad A.M Pagganwala, Advocate for applicant  
alongwith applicant (on interim pre-arrest bail).

Ms. Sana Memon, A.P.G for State.

Complainant Naveed present in person.

**ORDER**

**MUHAMMAD FAISAL KAMAL ALAM, J.-** It is stated in the FIR that applicant / accused was operating a Cotton Factory of Hakeem Bashir at Dadu. Tenancy ended and factory was handed over alongwith the cheque No.**10336663** of Rs. two million towards outstanding rent and dues which upon presentment was dishonoured.

2. Learned counsel for the Applicant argues by referring to the Document with Caption 'Iqarnama' at Page 75 of the File that Complainant has already acknowledged that while handing over the Factory, all the dues were paid. However, the cheque was with regard to some other transaction for sale of machinery. Further stated that there is a delay in lodging the FIR, as admittedly the cheque was presented on 20.10.2022 and was bounced, whereas the incident was reported on 24.12.2022. He states that the incident of 01.12.2022 mentioned in the FIR is completely false as the applicant / accused never extended any threats to the complainant. He has referred to the civil litigation subjudice between the same parties with regard to the subject cheque No.**10336663**.

3. Learned A.P.G has opposed the bail application and states that there is no issue of jurisdiction as argued by the applicant's counsel. Further states that since it is admitted by the Applicant / Accused that the cheque has been issued by him which was dishonoured on the basis of insufficiency of funds, therefore, the bail be rejected. She produced the relevant Bank Advice dated 17<sup>th</sup> February 2023 confirming the above.

4. Arguments heard and record perused.

5. Undisputedly, the Cheque was presented on 20.10.2022 and the FIR was lodged on 24.12.2022, confirming the inordinate delay of more than two months. With regard to the incident of extending threats on 01.12.2022, it is a matter of further evidence. The Order passed by the learned Additional Sessions Judge-I / Justice of Peace, Dadu dated 17.12.2022 is also considered in which question of jurisdiction was observed as the cheque is of Bank Al-Habib Limited Seaview Branch, Karachi, whereas the Cheque was presented in the Bank Account of Complainant at Meezan Bank Limited Saddar Branch, Karachi. The pendency of civil suit and the above Document-Igramama are factors which should be given due importance, as it will affect the overall transaction between the parties, besides, is a triable issue. The applicant / accused is present in Court and states that he is a graduate and is doing the business of textile. On a specific query learned A.P.G states that there is no previous criminal record of the applicant / accused. Challan has been in the Court and applicant / accused is regularly attending the proceedings. Neither he can interfere in the investigation nor influence the witnesses. In these circumstances, if the bail is refused, it would stigmatize the applicant / accused, having direct

impact on his other business. Consequently, concession of bail is granted. The interim pre-arrest bail already granted to applicant is confirmed; however, the applicant / accused shall furnish a solvent surety in the sum of Rs. One Million and P.R Bond in the like amount to the satisfaction of the learned Additional Registrar of this Court.

6. This is a tentative assessment and if the bail is misused, the learned Trial Court can pass an appropriate order.

JUDGE

Tufail