

**IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR**

Cr. Bail Appln. No. S – 603 of 2022

Date

Order with Signature of Hon'ble Judge

For hearing of bail application

06.02.2023

Mr. Liaquat Ali Malano, Advocate for the applicants
Syed Sardar Ali Shah, Deputy Prosecutor General for the State along with
complainant SIP Pir Bux

=====
ORDER
=====

ZAFAR AHMED RAJPUT, J- Through instant Criminal Bail Application, the applicants / accused, namely, Irfan Ali S/o Wazir Ahmed and Farman Ali S/o Hajan, seek post arrest bail in Crime No.184 of 2022 registered at Police Station, Mirpur Mathelo, District Ghotki, under Sections 489-B and 489-C PPC. Their earlier applications for the same relief were heard and dismissed by learned Additional Sessions Judge-IV, Mirpur Mathelo and Additional Sessions Judge-II, Ghotki vide orders dated 19.09.2022 and 08.11.2022, respectively.

2. As per FIR, it is case of the prosecution that on 11.09.2022 at 1400 hours at link road near Khosa Phatak, the applicants were arrested being found in possession of forged currency notes of valued 19000 and 13200, respectively.

3. Heard learned counsel for the applicant as well as learned Additional PG for the State, and perused the material available on record.

4. It is settled legal position that at bail stage deeper appreciation of the record cannot be gone into, but only tentative assessment is to be made just to find out as to whether the present applicants / accused are connected with the commission of the alleged offence or not. Applying the above settled legal position to the case of the applicants / accused, it will appear that *prima facie* the

ingredients of Section 489-B, PPC are not met in the circumstances of the case, at the best it can be the case of 489-C, PPC for which minimum punishment as provided to the extent of 07 years or with fine or with both, which does not fall within the prohibitory clause of Section 497 Cr.P.C. It has already been observed by the Single Judge of the Lahore High Court in the case of Muhammad Sajjad vs. The State (1996 P Cr. L J 815), as under:-

"(5) Possession simpliciter of a counterfeit currency note does not constitute ingredients of section 489-B, P.P.C. This section deals with the sale, purchase, receipt or otherwise trafficking of a counterfeit coins/currency notes. This section also deals " with use of a counterfeit currency note as genuine, whereas section 489-C, P.P.C. deals with possession of any forged or counterfeit currency notes. The contents of F.I.R. do not show that the petitioner was selling or buying the counterfeit currency note. The information was that the petitioner was in possession of a counterfeit note worth Rs.1,000 and the same was recovered from the possession of the petitioner. Hence prima facie the offence would fall under section 489-C, P.P.C. which is not punishable with 10 years' R.I. or more. The petitioner is not a previous convict and is no more required for further investigation."

While dealing with the provisions of section 489-B, P.P.C., learned Single Judge of Lahore High Court in the case of Muhammad Afzal (supra), has observed as under:--

"(6) From the bare reading of the case of possession of the counterfeit/ forged/fake currency notes is made out for which section 489-B, P.P.C., prima facie, does not apply because the provisions of section 489-B of P.P.C. refer to a situation when the person in possession of the counterfeit currency notes sells, buys or receives from any other person or otherwise traffics it or uses it as genuine, knowing or having reasons to believe the same to be forged and counterfeit. In the instant case, there is no allegation/accusation of such kind found in the F.I.R. I made a query from the Investigating Officer, present in Court, as to whether any evidence of sale and purchase was recorded by him during the investigation, to which he replied in the negative, therefore, the case of the petitioner prima facie falls within the offence of section 489-C, for which the punishment has been prescribed as to the extent up to 7 years or with fine or with both, which does not fall within the prohibitory clause of section 497, Cr.P.C."

5. The perusal of record indicates that the applicants / accused at the time of their arrest were neither exchanging nor buying nor selling or trafficking the bogus currency notes as genuine having knowledge to believe that the same

were forged or counterfeit. The possession of the bogus currency notes is yet to be proved through convincing evidence in the trial Court and the offence with which the applicants / accused have been charged with, *prima facie* falls under Section 489-B, PPC nor 489-C, PPC. Hence, the applicants / accused had made-out a case of further inquiry in terms of Sub-section (2) of Section 497, Cr.P.C, accordingly, they are admitted to bail on their furnishing solvent surety in the sum of **Rs.100,000/- (One hundred thousand) each** and P.R bond in the like amount to the satisfaction of learned trial Court.

6. Needless to mention here that the observations made hereinabove are tentative in nature and will not prejudice the case of either party at the trial.

7. The bail application stands **disposed of** in the above terms.

Judge

ARBROHI