

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

Crl. Bail Application No. 2425 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**14-02-2023**

Mr. Mamoon A.K. Sherwany, Advocate for applicant.

Mr. Raja Basantani, Advocate for complainant.

Ms. Robina Qadir, Addl.P.G.

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**Omar Sial, J:** Fazal Akbar Khan claiming to be a recovery officer of 2 businesses by the name of Decent Blankets and Parda Corner lodged F.I.R. No. 153 of 2022 under sections 489-F, 420 and 34 P.P.C. at the Risala police station on 18.10.2022. He recorded that during the period February 2022, the 2 companies he represents supplied blankets to Royal Blankets which was owned by 2 brothers, namely Nadeem Abbas and Waseem Abbas. During the course of their dealings 1 cheque of Rs. 1000,000 was issued by Waseem Abbas, which cheque upon presentation, bounced. Waseem Abbas the applicant was arrested on 26.10.2022 and his application seeking bail was dismissed on 29.11.2022 by the learned 9<sup>th</sup> Additional Sessions Judge, Karachi South.

2. I have heard the learned counsels for both parties as well as the learned Addl.P.G. My observations and findings are as follows.

3. In order to prove that the cheque was issued for the fulfillment of an obligation, learned counsel has relied upon an agreement entered into sometime in August 2019. The said agreement, though appearing to show that liability was acknowledged by Waseem Abbas, does not indicate that the cheques in question were issued pursuant to that agreement. There seems to be another document which the complainant relies upon to show that money was due to him. This is an "order" of some sort passed by a market committee. Suffice to say such an "order" has no standing in the

eyes of law. On his part the applicant claims that the cheques were given to the complainant as a surety in the business dealings between the parties and that when the applicant, set up his own business and became a competitor of the complainant, the complainant was not happy and misused the said cheques. Be that as it may, the money liability of either party to the other will be decided in the Civil Suit for this purpose ostensibly pending between the parties. As far as the criminal liability is concerned that too will be decided by the learned trial court after it has had an opportunity to evaluate the evidence before it.

4. The applicant has been in jail for the last 4 months in a crime that carries a maximum penalty of 3 years. The purpose of declining bail is not to inflict punishment on a person pending trial. If he is guilty, he will be appropriately sentenced at the end of the trial. The offence alleged although not bailable falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping in view the fact that the applicant has already been incarcerated for a period of 4 months and end of trial does not appear to be near, I do not find any exceptional or extraordinary grounds to deny him bail.

5. Another thing I notice from the record is that the cheque was issued on 15.01.2022 but presented at the bank counters on 22.02.2022. The bank memo shows that apart from insufficient funds another reason for the cheque bouncing was that the drawer's signatures differ from the specimen given to the bank. Whether or not the cheques were issued by the applicant will no doubt be decided after the learned trial court has had an opportunity to analyse the evidence before it.

6. In view of the above, the applicant is admitted to post arrest bail subject to his furnishing 2 solvent sureties of Rs. 1 million each and P.R. Bonds in the like amount to the satisfaction of the learned trial court.

JUDGE

