

**THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-106 of 2023

DATE ORDER WITH SIGNATURE OF JUDGE

For orders on office objection.
For hearing of main case.

17.04.2023.

Mr. Zahid Mallah advocate for the applicants.
Ms. Sana Memon, Assistant Prosecutor General, Sindh.
Applicants are present on ad-interim pre-arrest bail.
Mr. Mir Muhammad Nohri advocate for the complainant.
Complainant is present in person.

O R D E R

MUHAMMAD IQBAL KALHORO, J:- Complainant is a businessman dealing, among others, in chicken medicine. Allegedly the applicants had purchased chickens from complainant, against which an amount of Rs.2,261,542/- got outstanding against them. The complainant demanded the money from them to which applicants issued three cheques of Rs.500,000/-each which on presentation in the bank were dishonored. Resultantly, FIR was registered.

Applicants' counsel has submitted that the applicants are innocent and have falsely been implicated in this case; the money has already been paid to complainant and such receipt is available in file; therefore no case is made out against the applicants u/s 489-F PPC. He has relied upon 2013 SCMR 51 to support his case. His arguments have been opposed by learned counsel for complainant and learned Assistant Prosecutor General Sindh.

I have considered submissions of the parties and perused material available on record. In the Investigation, the applicants could not produce this receipt of payment of money to the complainant for consideration. Complainant himself is present and submits that this receipt is fake and does not bear his signature. Prima facie, a case against applicants u/s 489-F PPC is made out and the applicants have not been able to furnish any explanation of their cheques in possession of the complainant and their dishonourment on presentation in the bank. The case law relied upon by the defence counsel is distinguishable as in that case the I.O. had

concluded that the cheques were given to the complainant as security and not in fulfillment of some obligation as is the case here. The facts here are different and applicants are prima facie connected with the offence and therefore, are not entitled to the concession of pre-arrest bail which can be granted to an accused who on the face of record has been falsely implicated in a case. Accordingly, the bail application is dismissed and ad-interim pre-arrest bail granted to them vide order dated 03.02.2023 is hereby recalled.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Irfan Ali