

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

Criminal Bail Application No.S-480 of 2023

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For orders on office objection.  
For hearing of main case.

12-06-2023

Mr. Muhammad Nadeem Sehto advocate for applicant along with applicant, who is present on interim pre-arrest bail.

Mr. Imran Ahmed Abbasi, A.P.G. Sindh along with I.O. ASI Muhammad Arshad PS A-Section Hyderabad.

Mr. Muzamil Khan Bughio, advocate for complainant along with complainant.

**MUHAMMAD IQBAL KALHORO**, J:- Complainant is a teacher whereas applicant Mehmood Khan and other accused named in FIR are stated to be partners in the Project known as Silver Dream Cottages, Latifabad, Hyderabad. Complainant and his brother-in-law, (husband of his sister-in-law) Muhammad Rashid booked two flats Nos. 203 and 204 in the said Project against Rs.4,500,000.00 (Rupees forty five lacs only) each in the year 2019. Thereafter they started paying installments and in all paid about Rs.39,000.00 (Rupees thirty nine lacs only) to the cost of Flats.

**2.** When the complainant along with remaining amount went to the office of said Project, the staff i.e. accused available there including applicant did not issue any receipt of the amount. Hence, he got suspicious and demanded his money back; against which, applicant Mehmood Khan in his independent capacity issued two cheques of Rs.1,246,000.00 each to him, which on presentation in the bank were dishonored. Other partners, accused in this case, also issued cheques to the complainant and those were also dishonored by the bank. Complainant thereafter pursued the matter vigilantly before every forum but to no avail.

**3.** I.O. is present submits that in this case the applicant and other accused used to receive money/installments from the complainant but never deposited in bank account of the Project and would distribute the amount among themselves. They deceived him by pretending that the amount was being received by him against the two flats he and his brother-in-law had booked. Finally, when the scam surfaced and neither the flats were given nor money and, police also

refused to register FIR, he filed an application under section 22-A and B CrPC and was successful in getting order for registration of FIR.

**4.** Learned defense counsel has argued that applicant is innocent, he is not the builder. Builder Asif has been let off by the police. There are contradictions in FIR and application u/s 22-A and B CrPC, hence the case set up against the applicant is one of further inquiry. His arguments have been disputed by the learned counsel for complainant and learned A.P.G. Sindh. I.O. has further narrated entire story of investigation and the manner the applicant used to deceive complainant by taking money from him against two flats but not depositing in the Project's bank account and issuing him fake receipts.

**5.** Be that as it may, this application is for relief for pre-arrest bail which is extraordinary in nature and can only be extended to an accused when there is sufficient material available on record showing that he has been implicated in the case out of *mala fide* and ulterior motives by the complainant; and there is imminent danger of his arrest. In the present case, in the investigation, *prima facie* reasonable evidence has been collected by the I.O. in the shape of two dishonored cheques issued by applicants to the complainant and the fact that applicant had been receiving amounts of installments from the complainant. The grounds taken in the defense require deeper appreciation of evidence which is not permissible at the stage of deciding bail application, let alone an application for pre-arrest bail.

**6.** In the circumstances, I do not find applicant entitled to the concession of bail. His bail application is **dismissed**. I.O. and learned A.P.G. Sindh both submit that in this case the challan has been submitted, as such the applicant may be taken into custody otherwise he will abscond. Learned counsel at this juncture submits that the trial Court may be directed to expedite the trial. The applicant is taken into custody as requested and remanded to Jail with direction to produce him before the learned trial Court on the next date of hearing, which is directed to conclude the case in three months.

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

JUDGE