

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

Crl. Bail Application No. 381 of 2023

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**07-04-2023**

Mr. Sandeep Kumar advocate holding brief for Mr. Imdad Ali Malik, Advocate a/w applicant.

Mr. Muhammad Nawaz advocate holding brief for Mr. Aftab Ahmed Satti, Advocate for complainant.

Mr. Talib Ali Memon, APG.

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**Omar Sial, J:** Babar Ali has sought pre-arrest bail in crime number 640 of 2022 registered under section 489-F P.P.C. at the Ferozabad police station. Earlier, his applications seeking bail was dismissed by the learned 4<sup>th</sup> Sessions Judge, Karachi East on 18.02.2023.

2. A background to the case is that the aforementioned was registered on 16.08.2022 on a complaint made by Mohammad Sabir who reported an incident that occurred on 22.08.2021 i.e. nearly a year ago. Sabir reported that he works in an air cargo service and that the applicant had sent a consignment of fish for which he owed the complainant Rs. 2,000,000. The applicant had given him a cheque, which bounced when presented at the bank's counters on 27.08.2021.

3. Neither the counsel for the applicant nor the complainant appeared at the hearing. I have however gone through the impugned order with the assistance of the learned APG.

4. The learned APG confirms that there is no evidence on the police file which would show that a consignment of fish was sent through air cargo. I find this immensely strange as a consignment being sent as cargo through a recognized air freight service would most certainly be documented. Learned APG also confirms that there is nothing on record to show as to why it took the complainant nearly a year to file a case for a cheque that

admittedly bounced on 27.08.2021. In view of the foregoing, it is still to be determined as to whether the cheque was given by the applicant and if it was whether the same was for the fulfilment of an obligation or satisfaction of a loan, as required by section 489-F P.P.C. The case against the applicant is one of further inquiry, and as at the moment there is nothing that seems to substantiate it, malafide on the part of the complainant in filing this case cannot be conclusively ruled out.

5. An offence under section 489-F carries a potential sentence of up to 3 years and although not bailable falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping in mind the principles enunciated in Tariq Bashir and 5 others vs The State (PLD 1995 SC 34), I do not see any exceptional or extraordinary grounds to decline the bail application.

6. Above are the reasons for the short order dated 05.04.2023.

JUDGE