

# THE HIGH COURT OF SINDH KARACHI

## Criminal Bail Application No. 522 of 2023

Applicant/Accused : Rizwan Ahmed Abbasi son of Qazi Shams-ul-Haq through Mr. Karamat Raza Haider, Advocate.

Complainant/State : Through Ms. Rahat Ahsan, Additional Prosecutor General, Sindh.

Date of hearing : 06-04-2023

Date of order : 06-04-2023

*FIR No. 12/2023  
U/s 489-F/420/34 PPC  
P.S. Baldia*

### **ORDER**

**Adnan Iqbal Chaudhry J.** - The Applicant/Accused seeks post-arrest bail in the aforesaid crime after the same was rejected by IV<sup>th</sup> Additional Session Judge Karachi (West) vide order dated 01.03.2023.

2. The FIR was stated that the Applicant and his brothers were given a contract for constructing a Masjid by the President of the Masjid Committee; that after taking an advance of Rs.45,12,500/-, the Applicant and his brothers vanished; that finally when they were traced out, the Applicant gave the cheque in question viz of Rs.640,000/- to return part of the advance to the Complainant, which cheque was dishonored on presentation.

3. It is contended by the Applicant that the advance received under the construction contract had been expended by the Applicant and his brothers while raising construction of the Masjid; that in fact they had also expended some of their own money on assurance by the Complainant that they would be reimbursed; that when they were not reimbursed, they stopped construction work; that the Complainant along with his accomplices detained the Applicant's

brother and therefore, the cheque in question was given under duress.

4. Admittedly, there was a construction contract between the parties. While the Complainant alleges that the Applicant took an advance and did not perform the contract, the Applicant alleges that the advance had been expended in the construction and the dispute is over the amount owed to the Applicant by the Complainant. In these circumstances, the question whether the cheque was given under duress or with any dishonest intention is a question of fact requiring evidence.

5. The cheque in question is dated 20.08.2022. Why it was presented on 16.01.2023, after a lapse of nearly five months has yet to be explained by the Complainant, which raises the further question whether the dishonest intention is to be gathered on the day the cheque was issued or on the day it was presented.

6. For the foregoing reasons, the Applicant is granted bail subject to furnishing solvent surety in the sum of **Rs.100,000/- [Rupees One Hundred Thousand Only]** alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

\*PA/SADAM\*

**JUDGE**