

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 519 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

05-05-2023

Applicant in person.

Mr. Jameel Khaskheli, Advocate a/w complainant.

Ms. Robina Qadir, Addl.P.G.

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Omar Sial, J: Muhammad Aqib has sought pre-arrest bail in crime number 33 of 2023 registered under section 489-F P.P.C. at the Mithadar police station. Earlier, his applications seeking bail was dismissed by the learned 11th Additional Sessions Judge, Karachi South on 03.03.2023.

2. A background to the case is that the aforementioned was registered on 09-02-2023 on a complaint made by Syed Muhammad Ovais who reported an incident that occurred on 01-12-2022. Ovais reported that he had given the applicant Rs. 1.8 million as the applicant had promised him profit on the same. Profit was not given for 4 months and when Ovais asked him for the same, the applicant gave him a cheque of Rs. 1.8 million that bounced upon presentation.

3. I have heard the applicant in person and the learned Addl.P.G. who was assisted by the learned counsel for the complainant.

4. The learned Addl.P.G. confirms that there is nothing on record to show that an amount of RS. 1.8 million was given to the applicant by the complainant. The complainant too expresses his inability do so. I find it extremely unnatural that such a high amount was given by the complainant to the applicant without the same being documented in any manner whatsoever. 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 fulfillment 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 28.04.2023.

JUDGE