

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
Crl. Bail Application No. 282 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

19-10-2023

Mr. Ashiq Ali Mangan, Advocate for the applicant
Mr. Muhammad Iqbal Awan, Additional Prosecutor General

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Omar Sial, J: Applicant Shoukat Ali son of Muhammad Ashraf, has sought pre-arrest bail in crime number 229 of 2021 registered under section 489-F, 406 P.P.C. at Saudabad police station. Earlier, his application seeking bail was dismissed on 27.01.2023 by the learned 3rd Additional Sessions Judge, Karachi-East.

2. A background to the case is that the F.I.R. above was registered on 06.04.2021 on the complaint of one Shamsul Haq Tanoli, who reported that one Ch. Asad Saleem had obtained his Truck bearing Registration No. N-49348 on rental basis. Initially he paid two months' rent and then stopped payment. On demand of complainant, Shoukat Ali Noor (the applicant) on behalf of Ch. Asad Saleem issued two cheques in the sum of Rs.100,000/- each, both the cheques were bounced on presentation. After that, when the complainant contacted the accused and demanded his money, he kept him on false hopes and never paid the amount payable by him.

3. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General for the State. The complainant did not effect an appearance despite notice.

4. Learned counsel for the Applicant has contended that the applicant is in the business of fertilizers and in this connection he had

given two cheques amounting to Rs.100,000/- each as security and the same were to be returned on supply of raw material, however, Ch. Asad Saleem committed breach of trust and without informing the applicant handed over both cheques to the complainant. Per counsel the applicant has no direct dealing with the complainant and therefore, no question of the cheque being given for the satisfaction of a loan or fulfillment of an obligation arises.

5. From contents of the FIR, it appears that the applicant is a colleague of Ch.Asad Saleem and on behalf of Asad he had given two cheques and admittedly there is no business transaction between applicant and complainant. The FIR was also registered after delay of one month and no plausible explanation has been put forward. It is still to be determined why the applicant gave the cheque and whether the same was for fulfilling an obligation, as required by Section 489-F PPC. The case against the applicant is one of further inquiry, and as of the moment, nothing seems to substantiate the allegations; malafide on the part of the complainant in filing this case cannot be conclusively ruled out.

6. Offence under sections 489-F and 406 P.P.C., though not bailable, carry a potential sentence of up to three years and thus fall within the non-prohibitory clause of section 497 Cr.P.C. In view of the principles enunciated in Tariq Bashir and 5 others vs The State (PLD 1995 SC 34), I do not find any exceptional or extraordinary grounds to deny the applicant bail.

7. Given the above, the interim pre-arrest bail granted to the applicant is confirmed on the same terms and conditions.

JUDGE