

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1744 of 2023

Applicant : Syed Saleem Anwar Kazmi S/o Zaheer Hussain Kazmi
Present in person.

Complainant : Karamullah Solangi S/o Muhammad Khan Solangi through Mr. Irshad Ali Shar,
Advocate

Respondent : The State
Through Mr. Siraj Ali Khan,
Addl. P.G. Sindh

Date of hearing : 15.08.2023

Date of order : 15.08.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.637/2023 registered under Section 489-F/506-B/34PPC at PS Shah Latif Town, after his bail plea has been declined by Additional Sessions Judge-VI, Malir Karachi vide order 31.07.2023.

2. The details and particulars of the FIR are already available in the memo of bail application and FIR, which can be gathered from the copy of FIR attached with the application, hence, needs not to reproduce the same hereunder.

3. Before the tea break, when the matter was taken up, learned counsel for the applicant was present; however, now he is called absent. Applicant is present and submits that he is innocent and has falsely been implicated in this case; that he has no business relationship with the complainant, in fact, he had business terms with one lady Nida; that the alleged

cheques have not been issued by him. He lastly prays for confirmation of bail.

4. On the other hand, learned Addl. Prosecutor General and learned counsel for the complainant vehemently oppose for grant of bail on the ground that the applicant/accused is involved in this case and alleged cheques have been issued by him.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. Perusal of record shows that brother of the complainant invested an amount of Rs.60,41,0000/- for business purpose with the present applicant and two other persons; however, when he asked for return of payment, the applicant issued five cheques which became bounce on their presentation due to insufficient funds, hence the ingredients of Section 489-F PPC are very much applicable in this case. Further, when the cheques were dishonoured due to insufficient amount in the account and the applicant knew that no amount is lying in his account even then he issued the cheques to the complainant. However, the applicant has committed the offence of cheating and fraud with the complainant. The applicant has also not denied issuance of his cheques as well as from his signatures. The ocular evidence finds support from the other evidence. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case

falsely. In this context, the reliance is placed to the case of **‘Rana Abdul Khaliq v. The STATE and others’ [2019 SCMR 1129]**. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 02.06.2023 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA