

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Criminal Bail Application No.S- 405 of 2024

**03.06.2024.**

Mr. Farhad Ali Abro, Advocate for Applicant.  
Mr. Mir Mirza Naeem Baig, Advocate for Complainant.  
Mr. Shahid Ahmed Shaikh, A.P.G for State.

**ORDER**

**MUHAMMAD FAISAL KAMAL ALAM, J.-** Applicant Muhammad Awais has filed this Post Arrest Bail Application. The Applicant / Accused is in custody since 05.04.2024 in an FIR lodged on 22.12.2022 about the Offence u/s 489-F PPC, allegedly committed on 14.10.2022.

2. Applicant's Counsel contended that there was a business transaction between the Complainant and Applicant but after the relationship ended, Complainant malafidely did not handover the Cheques back to the Applicant / Accused; that Applicant / Accused is a business man with no criminal history; that there is a delay of more than two months in lodging the FIR and arrest has been made after two years of the incident. In support of his contentions, learned Counsel has placed reliance on the cases reported as **Abdul Saboor v. The State through A.G. Khyber Pakhtunkhwa and another** (2022 SCMR 592) and an unreported Order dated 22.04.2024 pass by this Court in Criminal Bail Application No.S-155/2024.

3. Complainant's Counsel has vehemently opposed this Bail Application and states that because of the misconduct of Applicant / Accused, Complainant has suffered losses. He attempted to justify the

delay, by stating that he approached the Applicant / Accused and was kept on false hopes that entire amount will be paid, but eventually Complainant realized that Applicant / Accused is playing fraud.

4. Learned A.P.G also opposes this bail and has referred to the subject Cheques which all were dishonoured due to insufficiency of funds, which is clearly an offence under Section 489-F PPC.

5. Arguments heard and record perused.

6. To a question that why till date the trial has not been concluded even after passage of two years, learned A.P.G states that due to backlog of the other cases, perhaps the delay has been caused. It is further stated that Applicant / Accused has no previous criminal history.

7. The Judgment of the Honourable Supreme Court (ibid) is of relevance and the rule is applicable to the facts of present case, *inter alia*, that when an offence does not fall within the prohibitory clause of Section 497 Cr.P.C, then concession of bail is a rule and refusal is an exception. Secondly, Challan has been submitted recently on 05.04.2024. Investigation is complete and obviously Applicant is not in a position to influence either the investigation procedure or witnesses. Thirdly, non-filing of any Civil Proceedings, including the Summary Suit for recovery of amount from the Applicant / Accused, by Complainant under Civil Procedure Code, is also surprising.

8. In view of the above, this Bail Application is allowed. The Applicant / Accused is granted post arrest bail subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand Only) and P.R Bond in the like amount to the satisfaction of the learned Trial Court.

9. Above is a tentative assessment and the observations made hereinabove shall not influence the trial and if the concession of bail is misused, then the learned Trial Court can pass an appropriate order.

JUDGE

Tufail