

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.187 of 2024

Applicant : Asif Akram son of Muhammad Akram
through Mr. Siraj Ahmed Mangi, Advocate

Complainant : Ghulam Hussain Chandio son of
Muhammad Raheem through Syed
Shafqat Hussain, Advocate

Respondent : The State
Mr. Ali Haider Saleem, Addl. P.G. Sindh

Date of hearing : 11.07.2024

Date of order : 11.07.2024

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.05/2024 for the offence under Section 489-F PPC at PS Boat Basin, after his bail plea has been declined by the learned Additional Sessions Judge-XI, Karachi South vide order dated 23.01.2024.

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

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case; that there is business transaction between the parties and nothing is outstanding against the applicant; that case has been challaned and the applicant is attending the Court regularly. Lastly, he prays for confirmation of bail. In support of his submission, he has relied upon a case reported as 2023 SCMR 1948 (Abdul Rasheed vs. The State).

4. On the other hand, learned counsel for the complainant relies upon the agreement which is available at Page-41 wherein the applicant has undertaken to return the payment but failed to pay the same, as such, he is not entitled for confirmation of bail. Learned Addl. P.G. also supports the submissions made by him.

5. From perusal of record, it reflects that that there was a business transaction between the applicant and the complainant and in lieu thereof, an agreement was held between the parties; however, when the applicant failed to pay the amount then

complainant demanded the same; as such, the applicant had given him two cheques of Rs.10 lacs each, which were bounced on presentation with an endorsement that “*insufficient balance*”. From the above conduct, it appears that the applicant has no intention to pay the said amount. Further, the applicant knowingly issued the cheques that he had no sufficient amount in his account, as such, he 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 signature. 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.

6. 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.

7. 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 25.01.2024 is hereby recalled.

8. 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