

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

Cr. Bail Application No. S-599 of 2024

Applicant : Muhammad Affan s/o. Abdul Ghaffar,
through Mr. Arbab Ahmed Khaskheli,
advocate

Respondent : The State, through Ms. Sana Memon,
Assistant Prosecutor, Sindh

Complainant : Muhammad Islam Khan s/o. Abdul Sattar
(nemo)

Date of hearing : 26.08.2024
Date of order : 26.08.2024

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/accused Muhammad Affan s/o. Abdul Ghaffar has sought pre-arrest bail in Crime No. 108/2024, registered at P.S. A- Section, Latifabad, Hyderabad under Section 489-F, P.P.C. His earlier application for the same relief bearing No.1203/2024 was dismissed by the learned VIth Additional Sessions Judge, Hyderabad vide order, dated 25.05.2024. The applicant was admitted to interim pre-arrest bail by this Court vide order dated 03.06.2024, now the matter is fixed for confirmation of the same or otherwise.

2. As per F.L.R., the allegation against the applicant is that he, for repayment of complainant's investment, issued a cheque in favour of complainant amounting to Rs.20,00,000/00, which was dishonored on being presented in bank for encashment due to insufficient funds.

3. Having been heard learned counsel for the applicant as well as D.P.G. and perusing the material available on record, it appears that the complainant invested Rs. 20.00,000/- in the business of the applicant under an agreement. Hence, it is yet to be determined at trial as to whether the applicant was under

obligation to pay any amount to complainant against alleged cheque, so also, issuance of subject cheque with dishonest intention is to be looked by the trial Court after recording pro and contra evidence of the parties.

4. It may be observed that the offence under section 489-F, P.P.C. is though non-bailable but does not fall within the prohibitory clause of section 497, Cr.P.C. Prima facie, section 489-F, P.P.C. is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. It is only to determine the guilt of a criminal act and award of a sentence, fine or both as provided under section 489-F, P.P.C. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception. Accordingly, the interim bail already granted to the applicant vide order dated 03.06.2024 is confirmed on same terms and conditions.

5. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of applicants on merits and if the applicant in any manner tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

Cri. Bail application stands disposed of.

JUDGE

Hafiz Fahad