

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 2634 of 2024

Date

Order with signature of Judge

For hearing of Bail Application

11.02.2025

M/s. Abdul Nabi Joyo & Abdullah J. Narejo, Advocates for the Applicant.
Syed Mumtaz Ali Shah, Assistant Prosecutor General, Sindh.

ORDER

ALI HAIDER 'ADA', J:- Through this bail application, applicant Altaf Ahmed son of Riaz Ahmed seeks his release on post arrest bail in Crime No.384 of 2024 of P.S Gulistan-e-Jauhar, Karachi, under Section 406, 489-F & 420 PPC. The applicant had filed his bail application before the Court of Sessions wherefrom it was assigned to learned Addl. Sessions Judge-XII, Karachi (West), who after hearing the parties, has turned down his request vide order dated 23.10.2024; hence, this application has been maintained.

2. The FIR No.384 of 2024 was registered at police station Gulistan-e-Jauhar, Karachi for the offence punishable under Section 406, 489-F & 420 PPC. As per FIR, the complainant has some contract relation with the applicant and due to non-fulfillment of the obligation of contract, some amount is lying pending and in this regard, the present applicant issued a cheque No.00000002 amounting to Rs.20,00,000/- dated 30.06.2024 of Habib Bank, Nazimabad Branch, Karachi, which was deposited in the account of one Shahzad who is the cousin of complainant and the said cheque was dishonoured. As per FIR, the incident was occurred on 09.07.2024 and the FIR was registered on 04.10.2024.

3. Learned counsel for the applicant submits that according to bare reading of the FIR, ingredients of Section 489-F PPC is not mentioned and even the Section 406 PPC is also not attracted. He further submits that there

is a delay in registration of the FIR without any explanation and even though if we go through the contents of the cheque as well as its memorandum, there is also a delay of more than four days, further, the complainant who deposited the cheque in account of one Shahzad, but it is not clear that why the said cheque was not deposited in his own account. Lastly, the learned counsel prays that applicant may be granted concession of bail.

4. On the other hand, learned Assistant P.G, Sindh opposes the bail application on the ground that no doubt there is a dispute of contract but the applicant is under obligation to pay the remaining amount to the complainant as well as the Section 406 PPC is very much applicable because some property is also involved on account of schedule of the payment, so the applicant is not entitled for the grant of post arrest bail.

5. Heard arguments and perused the material available on record.

6. Admittedly, there is a delay of more than two months in registration of the FIR which is not plausibly explained and even the disputed cheque is not a question at first because the date of incident is contra with the date of issuance of cheque, further, the Section 406 PPC contemplates about breach of trust and Section 405 PPC defines its definition, which is reproduced as under;_

“405. Criminal breach of trust: Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property, in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust.”

7. Therefore, in view of the above, once the attraction of Sections requires evidence, then the matter falls under the ambit of Section 497 (2) Cr.P.C. Accordingly, instant bail application is hereby allowed. Applicant **Altaf Ahmed son of Riaz Ahmed** shall be released on bail subject to furnishing his solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousands Only) and PR Bond in the like amount to the satisfaction of learned trial Court.

8. It may be pertinent to mention here that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, if the applicant is found misusing the concession of bail, learned trial Court may proceed against him.

JUDGE

Zulfiqar/P.A