

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Crl. Bail Application No. S-380/2024.

Date of hearing	Order with signature of Judge
-----------------	-------------------------------

- 1. For orders on office objections.
- 2. For hearing of bail application.

**O R D E R.**  
**03.10.2024.**

Mr.Ali Murad Malano, Advocate for the applicant.  
Syed Sardar Ali Shah, Add.P.G.

-.-.-.-

**Mehmood A. Khan, J.** Through this order, I intend to dispose of pre-arrest bail application filed on behalf of applicant/accused Aftab Hussain son of Ali Gohar alias Ali in crime No.60/2024, offence under section 489-F PPC of Police Station Mirpur Mathelo. Prior to this, the applicant/accused named above filed his application for grant of pre-arrest bail but the same was turned down by learned Additional Sessions Judge-I Mirpur Mathelo vide order dated 06.06.2024 hence he has filed his bail applications before this Court.

- 2. Though learned counsels for the parties were heard on the earlier date and following order was recorded.

*“ Learned counsel for applicant contends that the offence as alleged against him comes within the non-prohibitory clause. He further contends that three months delay is present and that the witnesses are prima facie interested. It is also contended that challan has since been submitted and two witnesses have already been examined. Learned counsel relies uon an unreported case bearing No. Crl. P.L.A No.286/2024 Re-ubaidullah @ Baido v. The State through P.G Sindh.*

*Learned Addl.P.G however, contends that financial murder of the complainant has been caused in*

*the matter; that delay has properly been explained in the matter as FIR was lodged after proceedings before the learned Justice of Peace. Learned Addl.P.G further contends that in respect to the cheques having been acquired by theft, the reported case of Jalal Akber v. The State (2011 P.Cr.L.J 754) is available whereas the financial murder has been discussed in reported case of Muhammad Nawaz v. The State & others (2011 MLD 299).*

*Having heard learned counsels, however, at the rebuttal stage as learned counsel for applicant required time to obtain restrain order in respect to cheque in question by filing a suit and submission of security let the matter be taken up on 30.09.2024 wherein in case no further arguments are made orders are liable to be passed.*

3. Learned counsel for the applicant in rebuttal required time to file a suit by submitting a security to obtain restraint order in respect to the subject cheque. Thereafter on 30.09.2024 learned counsel for the applicant sought time to affect compromise and to withdraw the bail application. Today it is stated that no compromise could be affected. Complainant is also present. Learned counsel for the applicant further relies upon the case of Riaz Ahmed vs. State (2024 YLR 1144) wherein under section 498 Cr.P.C bail application has been entertained and he has submitted photocopies of depositions said to have been recorded in the matter, however, no portion thereof has been relied upon.

4. Learned Addl.P.G, however, relies upon the case of Syed Hasnain Haider vs. The State and another (2021 SCMR 1466) wherein the term surety has been described as a liability.

5. Having heard learned counsel for the applicant, learned Addl.P.G and gone through the record.

6. This is an application under section 498 Cr.P.C to acquire pre-arrest bail in a cheque where the applicant is charged under section 489-F PPC on account of the subject cheque wherein it is alleged that the amount was borrowed and the cheque has been dishonoured by National Bank of Pakistan Mirpur Mathelo for return of the said amount which was deposited by the complainant in his account maintained in HBL Microfinance Bank Limited Daharki wherein it was informed that the said cheque has been bounced. It may be observed in the first instance that the matter is considered for pre-arrest bail which primarily requires mala fide to be shown as special concession of bail before arrest is required which is different from Section 497 Cr.P.C. The mere accusation of cheque having wrongly been acquired is not, however, found to be coming upon to the showing of mala fide as despite opportunity having been provided, the applicant has preferred not file a civil proceeding and on submission of security has obtained a restrain order to genuinely contest the allegations made in the matter. It is quite unfortunate that even negotiable instrument like cheque is being dishonoured in such a manner which create a very negative understanding to the society. However, in this regard further observation is not required to be made as the conclusion by the trial Court is yet to be made and it is preferred that the same be acquired on merits but the element of mala fide as referred to above is not found present. I preferred not to pass any further remarks in respect to merits of the bail as the first qualifying element has not been got passed by the applicant. Resulting the

pre-arrest bail application is **dismissed** and the interim order already granted by this Court in favour of applicant on 10.06.2024 is recalled.

The bail application stands disposed of as untenable, in accordance with the stated directions.

**J U D G E**

Irfan/P.A