ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Crl. Bail Appln. No.S-75 of 2024

Date	Order with signature of Hon'ble Judge

1. **For orders on office objection.**
2. **For hearing of Bail Application.**

Mr. Abdul Rehman Mughal, Advocate along with the applicant(on bail).
Mr. Ali Anwar Kandhro, Addl. Prosecutor General, Sindh.
Mr. Nadeem Ahmed Khoso, Advocate along with complainant.

Date of Hearing : 15.04.2024.

ORDER

Through instant bail application, Applicant Kabeer Ahmed son of Rahim Bux Brohi seeks his admission to pre-arrest bail in Crime No.108 of 2023, registered with Police Station City, Jacobabad, for offence punishable under Section 489-F, PPC. The applicant filed anticipatory bail application bearing No.979/2023 before the Court of Sessions, which later was assigned to learned Additional Sessions Judge-I/MCTC, Jacobabad, who after hearing the parties as well as the Prosecutor declined such plea of the applicant through his order dated 24.01.2024; hence, instant bail application has been maintained.

2. Learned Counsel submits that prior to registration of FIR of this case the applicant Kabeer Ahmed had filed an application u/s 22-A & 22-B, Cr.P.C vide Cr. Misc. Application No.892/2023 before the Ex-Officio Justice of Peace, Jacobabad against the complainant of this case and others, which by order dated 13.09.2023 was disposed of; hence the complainant filed instant case against him. The main contention of learned Counsel for the applicant is that the applicant had purchased cars from the complainant and had delivered blank cheques to him as guarantee and that the applicant had paid entire amount to the complainant and had also returned files of the cars except three cars, but he has not returned the cheques issued by the applicant, as he intended to

extort more amount from the applicant. He further submits that after furnishing surety before this Court the applicant has joined the trial before the trial Court and has never misused the concession. As far alleged cheque is concerned, per learned Counsel, the applicant has disputed the same by submitting documentary evidence, which is yet to be considered and determined by the trial Court; hence, in such a situation the case against the applicant requires further enquiry, therefore, prays for grant of bail application. In support of his contentions, he places reliance upon the cases reported as *Ch. Saeed Ahmed Khalil v. The State and others* **(2023 SCMR 1712)**, *Muhammad Imran v. The State and others* **(2023 SCMR 1152)**, *Zafar Nawaz v. The State* **(2023 SCMR 1977)**, *Abdul Rasheed v. The State and another* **(2023 SCMR 1948)**, *Adnan Shehzad v. The State and another* **(2021 PCr.LJ 914)**, *Shahid Hussain v. The State* **(2021 PCr.LJ Note 88)**, *Muhammad Shabbir v. The State and others* **(2020 YLR Note 22)** and *Muhammad Azhar Iqbal v. The State and another* **(2021 PCr.LJ 2189)**.

3. Learned Addl. P.G. submits that since there are disputed facts, therefore, in the light of dicta laid down by the learned Apex Court in the case of *Ahmed Shakeel Bhatti and others v. The State and others* **(2023 SCMR-1)**, he has no objection for grant of bail application.

4. Learned Counsel for the complainant opposes the bail application, on the ground that huge amount is involved in the case, therefore, the applicant is not entitled for the bail, as claimed.

5. No doubt the applicant is nominated in the FIR; however, it was registered with the inordinate delay of about 01 months & 23 days, for which no plausible explanation has been furnished by the prosecution. The delay in criminal cases has always been deprecated by the superior Courts. As far as the amount in question is concerned, the applicant has placed on record number of documents through his statement, which on perusal reveal that the parties are on strained relations over the business transactions; hence, have disputed the claim of each other. In view of earlier litigation between them, the element of *malafide* on the part of

complainant cannot be ruled out. Hence, the basic ingredients for grant of pre-arrest bail, as has been laid down by the Apex Court in the case of *Rana Muhammad Arshad v. Muhammad Rafique and another* **(PLD 2009 SC 427)** are very much attracted and applicable to this case. Moreover, there are disputed facts which are to be thrashed out by the trial Court after recording *pro* and *contra* evidence of the parties at trial; hence, in view of the dicta laid down by the Hon'ble Supreme Court in the case of *Ahmed Shakeel Bhatti* (supra), the case against the applicant requires further enquiry within the meaning of sub-section(2) to Section 497, Cr.P.C.

6. Consequently, instant bail application is hereby allowed. The interim pre-arrest bail granted to the applicant on 02.02.2024 is confirmed on same terms and conditions. The trial Court is however directed to expedite the trial proceedings and conclude it as early as possible.

7. The above observations are tentative in nature, which shall not influence the trial Court, in any manner, while conducting trial of the case.

JUDGE

Qazi Tahir/*