

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.74 of 2025

Applicant : Faizan Ali S/o Liaquat Ali Khokhar
through Mr. Danish Ahmed Khan,
Advocates

Respondent : The State
Through Ms. Rahat Ahsan, Addl. P.G.,
Sindh

Date of hearing : 04.02.2025

Date of order : 04.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.460/2024 for the offence under Section 489-F PPC registered at PS Tipu Sultan, after his bail plea has been declined by the learned VIth Additional Sessions Judge, Karachi South vide order dated 08.01.2025.

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, the applicant is innocent and has falsely been implicated in this case; that in fact the applicant has given the cheques as security and someone else has cheated the complainant; that a Summary Suit filed by the complainant is already pending but in order to create pressure upon the applicant, he has lodged the instant FIR, otherwise FIR is delayed with 08 months and 09 days; that the date and amount are wrongly written in the cheques and subsequently in the Summary Suit by the complainant; that the applicant has also filed a Suit before the competent Court; that learned Sessions Court wrongly dismissed the bail application of the applicant. Lastly, he prays for confirmation of bail to the applicant.

4. On the other hand, Learned Addl. P.G. has also opposed for grant of bail.

5. Heard arguments and perused the record.

6. The case of the prosecution is that the complainant is running a business of shipping broker. He received a shipment consisting of leather jackets from one Mohsin Attari intended to be sent from Pakistan to the USA, as such, he handed over the shipment to the present applicant for delivery to the USA. The freight cost for this shipment was agreed at PKR 850,000 while the total invoice value amounted to PKR 7,200,000; however, the present applicant provided him a fake shipment tracking number and claimed that the shipment would reach the USA within two to three months. After the lapse of said period, the complainant inquired about the shipment and found that it had not reached to the USA, as such, he contacted the present applicant who thereafter gave him two Cheques bearing No.11464031 and 11464033 both of Rs.4,000,000/- each; however, on presentation of these cheques, they became dishonoured with endorsement that 'amount insufficient'. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, the applicant knowingly issued the said cheques that he had no sufficient amount; as such, he has also committed offence of cheating and fraud with the complainant. The applicant has also not denied issuance of his cheque 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.

7. 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.

8. 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 10.01.2025 is hereby recalled.

9. 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