

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.105 of 2025

Applicant : Muhammad Sadiq S/o Abdul Sattar Memon through M/s. Azhar Jillani and Saddam Hussain, Advocates

Complainant : Qazi Gul Faraz S/o Qazi Abdul Malik through Mr. Rashid Hussain, Advocate

Respondent : The State
Through Ms. Rahat Ahsan,
Addl. Prosecutor General, Sindh

Date of hearing : 30.01.2025

Date of order : 30.01.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.684/2024 for the offence under Section 489-F PPC registered at PS Docks, after his bail plea has been declined by the learned Additional Sessions Judge-XII, Karachi West vide order dated 07.01.2025.

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 the applicant has paid entire amount to the complainant and only Rs.3 lacs is outstanding against the applicant which he is ready to pay; that the applicant is no more required for further investigation. Lastly, he prays for confirmation of bail.

4. Mr. Rashid Hussain, Advocate has filed Vakalatnama on behalf of the complainant, which is taken on record. He opposes for confirmation of bail on the ground that in fact earlier the complainant moved an application to DSP where decision was made and the applicant undertook that he would pay Rs.13,79,000/- to the complainant but thereafter he refused to pay the same; as such, he has lodged the instant FIR. He has also explained the delay for lodging the FIR. Learned Addl. P.G. has also opposed for grant of bail.

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

6. The case of the prosecution is that the complainant is doing business of purchasing and selling different items in Pakistan custom auction and as such on the order of present applicant, he purchased a lot of spices from custom, which he has given to him for which the applicant made part payment and for remaining amount of Rs.14,90,000/-, he has given two cheques bearing Cheque No.0000000032 amounting to Rs.11,79,000/- and another Cheque No.0000000031 amounting to Rs.200,000/- when these cheques were presented, they became dishonoured with endorsement that the 'Account is closed'. Hence, ingredients of Section 489-F PPC are very much applicable in this case. The applicant had issued two cheques despite knowing the facts that his account has been closed; as such, he has also committed cheating and fraud with the complainant. The applicant has also not denied issuance of his cheques as well as his signatures.

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, learned counsel for the applicant has failed to make out a case for grant of bail in terms of subsection 2

of Section 497 Cr.P.C. Accordingly, the instant bail application is **dismissed** and the interim pre-arrest bail granted to the applicant/accused vide order dated 14.01.2025 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