

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.335 of 2025

Applicant : Barkat Ali S/o Muhammad Hassan
through Mr. Roshan Ali, Advocate

Complainant : Muhammad Younus S/o Haibat Khan
through Mr. Aleem Akhtar Shaikh,
Advocate

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

Date of hearing : 04.03.2025

Date of order : 04.03.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.46/2025 for the offence under Section 489-F PPC registered at PS Gulshan-e-Maymar, after his bail plea has been declined by the learned Additional Sessions Judge-XII, Karachi West vide order dated 30.01.2025.

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. Applicant Barkat Ali is called absent. No intimation is received. In the interest of justice, his absence is condoned. Learned counsel for the applicant read over the FIR. He argued that the applicant is innocent and has falsely been implicated in this case; that in fact cash cheque was issued to one Abdul Sattar but complainant malafidely presented the same and the same was subsequently dishonoured due to insufficient funds; that in fact the complainant has misused that said cheque and lodged the FIR. He however admits that the applicant has to pay Rs.14 lacs to the complainant. Lastly, he prays for confirmation of bail.

4. On the other hand, learned counsel for the complainant submits that two Jirgas were held to settle the dispute but the applicant is avoiding to pay his dues to the complainant; as such,

he is not entitled for confirmation of bail. Learned Addl. P.G. also opposed for confirmation of bail to the applicant.

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that the complainant reported that his brother Abdul Sattar purchased a car at Rs.26 lacs through installment from the present applicant, for which advance amount of Rs.10 lacs was given but subsequently, the applicant asked him to return the said car and paid Rs.6 lacs more so he will give him another car. On his demand, the complainant Abdul Sattar returned the car so also paid Rs.6 lacs more. Thereafter, the applicant did not give him another car and on insistence of complainant's brother, he issued a cheque of Rs.14 lacs which was dishonoured on presentation due to sufficient funds. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, the applicant knowingly issued the said cheque 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 06.02.2025 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