

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.516 of 2025

Applicant : Ahmed Bakhsh S/o Ghulam Hussain
Present in person.

Respondent : For Complainant:
Mr. Dhani Bux Otho, Advocate

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

Date of hearing : 13.03.2025

Date of order : 13.03.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.360/2024 for the offence under Section 489-F PPC registered at PS Tipu Sultan, after his bail plea has been declined by the learned Addl. Sessions Judge-XI, Karachi South vide order dated 25.02.2025.

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. When the matter was first time taken up; Mr. Umer Farooque Mahar, Advocate appeared and requested for keeping aside the matter as his senior counsel was not available. At 09:30 a.m. when the matter was taken up; the applicant and his counsel Mr. Umer Farooque Mahar were called absent ; however, his partner requested that the matter may be adjourned. His request is declined. From the conduct of the applicant, it appears that after obtaining interim pre-arrest bail vide order dated 27.02.2025, he is avoiding to proceed with the matter. Whereas, Mr. Dhani Bux Otho, Advocate files Vakalatnama on behalf of the complainant, taken on record. He also submits that in fact there is an amount of Rs.100,00,000/- outstanding against the applicant; as such, he is avoiding to proceed with the matter and requested that may be decided on its own merit.

4. Learned Addl. P.G. read over the FIR. Learned counsel for the complainant also learned Addl. P.G. opposed for confirmation of bail and stated that the accused has issued cheque of Rs.50,00,000/- and on presentation, the same became dishonoured.

6. Heard arguments and perused the record.

7. The case of the prosecution is that the complainant reported that he is the owner of Shaheen and Sawera Flour Mills. A deal was finalized regarding a vehicle Revo bearing No.LC-7771 with the present applicant against amount of Rs.12,750,000/-; out of which he received cash Rs.27,50,000/- from him and for remaining Rs.10,00,000/-, applicant has given a post-dated cheque bearing No.CA0073040926 amounting to Rs.5,000,000/-; however, on presentation of the said cheque, it was dishonoured. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, the complainant came to know that the account of the applicant was closed for one year but he knowingly issued the said; 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.

8. 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.

9. 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 27.02.2025 is hereby recalled.

10. 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