

## **IN THE HIGH COURT OF SINDH AT KARACHI**

### Criminal Bail Application No.2819 of 2024

Applicant : Muhammad Saqib S/o Muhammad Saeed  
through Mr. Nisar Ahmed Metlo, Advocate

Complainant : Gulfam S/o Kalu  
through Mr. Muhammad Arshad Tariq,  
Advocate

Respondent : The State  
Through Mr. Muhammad Noonari, DPG

Date of hearing : 14.02.2025

Date of order : 14.02.2025

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.650/2024 for the offence under Section 489-F PPC registered at PS Korangi, after his bail plea has been declined by the learned Additional Sessions Judge-III, Karachi (East) vide order dated 25.11.2024.

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, applicant is innocent and has falsely been implicated in this case; that the story narrated in the FIR is completely different from the facts of the case; that as per contents of FIR, complainant paid Rs.14 lacs to the applicant for purchasing a plot having total consideration of Rs.15 lacs but in return, the applicant issued three cheques amounting to Rs.18 lacs, which is contrary to the facts of the case; that the applicant is attending the Court and has not misused the concession of bail. He lastly prays for confirmation of bail.

4. On the other hand, learned counsel for the complainant learned as well as learned DPG has 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 had purchased a plot from the present applicant on consideration of Rs.15 lacs and in presence of two witnesses, he paid Rs.14 lacs and for remaining one lac, he was agreed to pay the same at the time of transfer of documents; however, when the complainant asked for transfer of the file and possession of the same plot, the applicant started avoiding him and subsequently, he came to know that the said plot had already been sold to other person; as such, complainant demanded his money back, on which the applicant has given three cheques to him; two of these are of Rs.700,000/- whereas the third one is of Rs.400,000/-; however, when the same were deposited, they became dishonoured. 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, learned counsel for the applicant has failed to make out a case for grant of bail in view of subsection (2) of Section 497 Cr.P.C. Resultantly, the instant bail application is **dismissed**. The interim pre-arrest bail granted to the applicant/accused vide order dated 03.12.2024 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