

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appl. No.2382 of 2023

Date	Order with signature of Judges
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For hearing of Bail Application

06.03.2024.

Applicant is present in person.
Mr. Shaukat Khan, Advocate for the complainant.
Mr. Abrar Ali Khichi, Additional Prosecutor General Sindh.

Mohammad Karim Khan Agha, J. Applicant Syed Riaz Ahmed S/o. Syed Shafiq-ul-Hassan is facing trial before the VIIth Judicial Magistrate Karachi Central in respect of FIR No.35 of 2021 U/s. 489-F/420 PPC registered at PS Jouharabad, Karachi. He applied for pre-arrest bail, however, the same was recalled by the Ist Additional Sessions Judge/Model Criminal Trial Court (MCTC) Karachi Central vide order dated 07.10.2023, hence, the applicant has approached this Court for pre-arrest bail.

2. Brief facts of the case are that the complainant had given one Syed Hassan Mujtaba a total amount of Rs.1,10,00,000/- over a given period of time. When the complainant demanded return of the amount, brother of Syed Hassan Mujtaba namely Syed Riaz Ahmed gave a cheque of Rs.1,10,00,000/- to the complainant which when presented before the concerned Bank was dishonored, hence the above FIR has been lodged against the applicant.

3. I have heard the parties and perused the record.

4. The first point to note is that the cheque was given by Syed Hassan Mujtaba and not Syed Riaz Ahmed so it is difficult to see how the applicant is liable under section 489-F PPC. Even otherwise the offence under Section 489-F PPC carries the maximum sentence of 03 years imprisonment and in such like cases the general rule is that bail should be granted unless some exceptional circumstance exist which justifies the refusal of bail. In this case no such exceptional circumstances exist.

5. Learned counsel for the complainant states that the applicant is a habitual offender as he has been convicted in another case in Punjab, however, he is on bail in that case. In this case as mentioned above, it is difficult to see how the applicant is linked to an offence under section 489-F as he did not even issue the cheque which makes this case extinguishable from the case concerning his conviction in the Punjab. The case is based on documentary evidence which cannot be tampered with by the applicant. The charge has been framed and as such the applicant is no longer required for investigation.

6. Based on the above discussion, the pre-arrest bail earlier granted to the applicant Syed Riaz Ahmed S/o. Syed Shafiq-ul-Hassan by this Court on 20.10.2023 is confirmed on the same terms and conditions.

7. It is made clear that this order is only after a tentative assessment of the evidence available on record and would have no bearing on the outcome of the trial of the applicant which shall be decided by the concerned trial Court on merits based on the evidence placed before it. The trial court is directed to complete the trial expeditiously. Copy of this order shall be sent to VIIth Judicial Magistrate Karachi Central for compliance.

8. The instant criminal bail application stands disposed of in the above terms.

JUDGE

M. Arif