

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.142 of 2020

Applicant : Mehtab Ali S/o Shaikh Niaz Ali
Through Ms. Sultana Begum, Advocate

Respondent : The State
Through Syed Meeral Shah Bukhari,
Addl. Prosecutor General, Sindh.

Date of hearing : 04.08.2020

Date of order : 04.08.2020

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.516/2019 registered under Sections 489-F/34 PPC at PS Boat Basin, Karachi, after his bail plea has been declined by Addl. Session Judge-III, Karachi South vide order dated 05.12.2019.

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. Learned counsel for the applicant/accused has mainly contended that applicant/accused is innocent and has falsely been implicated in this case; that there is a business transaction between the parties and the applicant/accused has paid the entire amount to the complainant but the complainant has implicated the applicant/accused with ulterior motives. She lastly prays for confirmation of bail.

4. On the other hand, learned Addl. PG has vehemently opposed for confirmation of bail.

5. I have heard the learned counsel for the parties and have gone through the material available on record.

6. It is an admitted position that the applicant/accused has given nine (09) cheques of Rs.10,500,000/- which was presented by the complainant in the bank but the same was returned with endorsement of insufficient amount; hence, ingredients of section 489(F) is very much applicable in this case. Prima facie sufficient material is available on record to connect the applicant with commission of the alleged offence.

7. 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]. Further, 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 applicant has failed to bring his case for further inquiry as envisaged under subsection (2) of section 497, Cr.P.C. Consequently, the interim pre-arrest bail granted by this Court to the applicant/accused vide order

dated 04.02.2020 is hereby recalled and the bail application is **dismissed**.

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 applicants on merits.

Kamran/PA

JUDGE