

Order Sheet  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

Cr. Bail Appl. No. S- 927 of 2019

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DATE	ORDER WITH SIGNATURE OF JUDGE
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03.10.2019

For orders on office objection  
For hearing of main case

Mr. Tufail Ali Qureshi, advocate for applicants  
Ms. Sana Memon, A.P.G.

**ZULFIQAR ALI SANGI, J.-** This bail application has been filed on behalf of applicant Iftikhar Baloch Manthar s/o Gamon Khan Sahowal in Crime No. 66 of 2019 registered at police station Qasimabad Hyderabad under Section 489-F P.P.C.

The facts of the prosecution case as narrated by complainant Jan Muhammad in above FIR are that he is doing business of sale and purchase of plots. On 9.4.2018 he in presence of witnesses sold one Alto Car No. AQJ-379 Model 2008 to the applicant for an amount of Rs.6,66,000/-. The applicant paid him Rs.40,000/- and for remaining amount one installment of Rs. 76,000/- was to be paid on 20.4.2018 and for other amount a cheque of Rs.5,50,000/- was given to him. The complainant deposited the cheque in his account which was bounced on 17.10.2018 and 19.10.2018. The complainant therefore, after obtaining order from learned Ex-Officio Justice of Peace registered the FIR.

Learned counsel for applicant mainly contended that the FIR is delayed by six months and 13 days without any plausible explanation; that the subject cheque was given by the applicant as security to the complainant; actually the applicant has already paid the amount to complainant but he did not return the cheque him, as such the applicant stopped the payment of said cheque by moving application to concerned Bank on 30.7.2018; that the dispute is over payment of money which even otherwise is a dispute of civil nature; that Section 489-F carries punishment of three years, hence does not fall within the prohibitory clause of Section 497 Cr.P.C. In support of his contention, learned counsel has relied upon the case of Mst. Rubina Qureshi v. The State (2013 MLD 874) and Muhammad Iqbal v. The State (2018 YLR Note 157).

Learned A.P.G. has opposed the grant of bail to the applicant on the ground that the applicant has committed fraud with the complainant, therefore, he is not entitled for bail.

I have learned counsel for the parties and perused the record.

At the outset it is observed that this is a bail before arrest wherein only tentative assessment is permissible, therefore, without going into deeper appreciation of evidence, it is noticed that there is a delay of more than six months in registration of FIR which has not been explained by the complainant which prima facie shows that the FIR has been got registered after due deliberation and consultation. The applicant has filed copy of agreement with complainant in which complainant has asserted that he has lost the check and as soon as it is found he will return the same and for that cheque only the applicant by moving application to the concerned bank has stopped payment. One of the basic requirements of an act to be an offence u/s 489-F P.P.C. is that the cheque which is dishonoured was given dishonestly to fulfil an obligation or for the repayment of a loan. The applicant has also submitted copy of slip of MCB Bank with head of "CHEQUE STOP PAYMENT" which show that on 30.7.2018 applicant approached the bank for stopping the payment of disputed cheque and such memo shows reason for stopping payment as "lost". An offence u/s 489-F P.P.C. carries a potential sentence of 3 years and thus falls within the non-prohibitory clause of section 497 Cr.P.C. Tentatively the applicant has been able to make out a case for confirmation of bail. Accordingly the interim pre-arrest bail already granted to the applicant is confirmed on the same terms and conditions.

JUDGE

Order Sheet  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

Cr. Bail Appl. No. D- 40 of 2019

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DATE	ORDER WITH SIGNATURE OF JUDGE
05.09.2019	

For orders on office objection  
For hearing of main case

Mr. Imdad Hussain A. Shahani, advocate for applicant  
Mrs. Rameshan Oad, A.P.G.

**ZULFIQAR ALI SANGI, J.-** This bail application has been filed on behalf of applicant Shafi @ Sain Dad s/o Wahid Bux in Crime No. 81 of 2019 registered at police station Cant Hyderabad under Section 25-A Sindh Arms Act 2013.

The story as narrated in the FIR is that Inspector Ishtiaq Bajwa posted at CIA Hyderabad as per order of ATC-I, Hyderabad on 20.6.2019 under Roznamcha Entry No. 18 at about 1845 hours reached at police station Cant Hyderabad, took the custody of arrested accused Shafi @ Saindad in Crime No. 55 of 2019 registered at police station Cant Hyderabad and started interrogation. During interrogation accused confessed the crime and disclosed that he had a pistol through which he had committed the crime. The complainant on his pointation and in presence of ASI Muhammad Uris and PC Khadim Hussain recovered one 30 bore pistol along with magazine having 03 lives bullets in black shopper from Tando Jahania graveyard. On inquiry accused failed to produce license of said pistol, hence FIR under section 25-A Sindh Arms Act, 2013 was registered and challaned in the Court of Special Judge Anti-Terrorism Hyderabad.

Learned counsel for applicant mainly contended that though the police had early information but they failed to associate any private mashirs hence there is violation of Section 103 Cr.P.C. He further contended that actually the applicant was arrested on 4.4.2019 but police with malafide intention shown his arrest on 13.6.2019 and later on the pistol was foisted upon him, therefore, he is entitled to grant of bail.

Learned A.P.G. submits that the applicant is involved in a heinous offence of abduction of Dr. Eraj Asad and such FIR being Crime No. 55 of 2019 is registered at police station Cant Hyderabad and he was properly

identified by abductee during his identification parade. She further submits that the punishment provided for Section 25-A Sindh Arms Act, is 10 years therefore, he is not entitled to grant of bail.

Heard learned counsel and perused the record.

Record reflects that the applicant is involved with specific role in Crime No. 55 of 2019 under Section 365-A P.P.C. r/w Section 6/7 ATA in the course of which allegedly he used the recovered pistol which he after his arrest produced to the police. The offence for which the applicant is charged is punishable with 10 years imprisonment and is a heinous one being connected with the offence of abduction. Police officials are good witnesses like others and their credibility is subject to cross-examination before the trial court. In the main case of abduction the bail application of present applicant has already been dismissed by this court. In view thereof, he is not entitled for grant of bail in the present case also. Accordingly his bail plea is declined.

This Cr. Bail Application stands disposed of. The observations made above are tentative in nature and shall not cause any prejudice to either party at the trial.

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