

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.1950 of 2021**

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*Date* *Order with signature of Judge*

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*For hearing of Bail Application.*

**17.01.2022**

Mr. Ali Gohar Masroof, Advocate along with Applicant (on bail).  
Mr. Muntazir Mehdi, Addl. Prosecutor General, Sindh along with ASI  
Maqsood Chohan of P.S Model Colony, Karachi.  
Khawaja Muhammad Azeem, Advocate for the Complainant.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicant Ilyas Masih seeks his admission on pre-arrest bail in Crime No.271/2021 of Police Station Model Colony, Karachi, under Section 489-F PPC. The case after thorough investigation has been challaned by the police which is now pending for trial before the Court of 9<sup>th</sup> Judicial Magistrate, Karachi (East) vide Criminal Case No.Nil (re-the State Versus Ilyas Masih). The applicant preferred his anticipatory bail before the Court of Sessions wherefrom it was assigned to 8<sup>th</sup> Addl. Sessions Judge, Karachi (South) vide Criminal Bail Application No.2898/2021 (re-Ilyas Masih Versus The State), who after hearing the parties, has turned down his request in terms of his order dated 25.08.2021; hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant submits that incident allegedly occurred on 28.04.2021 and the report thereof was lodged on 31.05.2021. Next submits that alleged cheque was dishonoured through memo on 28.04.2021. He further submits that the applicant has paid up entire amount to complainant through receipt dated 04.01.2021 (Annexure-D available at page-31 of the Court file). He, therefore, submits that the offence with which applicant stands charged, does not exceed limits of prohibitory clause of section 497 Cr.P.C. Next submits that the applicant, after furnishing surety before this Court, has joined the trial proceedings.

4. On the other hand, learned Addl. P.G, Sindh, appearing for the State, opposes the bail application; however, I.O/ASI Maqsood Chohan present, submits that per his investigation, applicant has already paid disputed amount to the complainant and the amount involved in this case is of fine in lieu of cancellation of agreement.

5. Learned counsel for the complainant, while adopting arguments advanced by learned Addl. P.G, Sindh, also opposes the bail application and submits that the receipt annexed with Court file by the applicant is fake one and the signature put upon it is different from signature of the complainant. He, therefore, submits that applicant is not entitled for concession of bail.

6. **Heard arguments and perused record.** Admittedly, the incident, as reported, took place on 28.04.2021 and the report thereof was lodged on 31.05.2021 i.e. with delay of about one month; besides, the offence with which applicant stands charged, carries maximum punishment of three years. The amount involved in this case is not huge one. Entire evidence of the prosecution is in shape of documents which are in custody of prosecution itself, therefore, question of its tampering or otherwise, does not arise. Accordingly, in view of above, I am of the opinion that applicant has made out a good prima facie case for his admission on pre-arrest bail within the meaning of sub-section 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicant **Ilyas Masih son of Rehmat Masih** on 13.10.2021 is hereby confirmed on same terms and conditions.

7. Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

8. Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

9. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

**JUDGE**