

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.299 of 2021

Applicant : Muhammad Sajjad Chughtai S/o
Deewan Ali Through Mr. Muhammad
Iqbal, Advocate

Complainant : Muhammad Salahuddin S/o
Muhammad Hussain present in
person.

Respondent : The State
Through Mr. Hussain Bux Baloch,
Addl. Prosecutor General, Sindh.

Date of hearing : 02.08.2021

Date of order : 02.08.2021

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.399/2020 registered under Section 489-F PPC at PS Malir Cantt., after his bail plea has been declined by Sessions Judge, Malir Karachi vide order 06.01.2021.

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 mainly contended that applicant/accused is innocent and has falsely been implicated in this case; that the complainant failed to disclose the details of the cheques No. so also agreement or any document to believe that the complainant has purchased the car from the applicant/accused; that the case has been challaned and prays for confirmation of bail.

4. On the other hand, complainant present in person as well as learned Addl. P.G. vehemently opposed for confirmation of bail on the ground that two cheques of Rs.45

lacs were given by the complainant to the applicant/accused in respect of payment of a car which was cashed by him but subsequently, the complainant came to know that the car is registered in the bank name therefore he asked the applicant/accused to return the said amount i.e. Rs.45 lacs, as such, applicant/accused had given him two cheques bearing Nos.49382525 and 49382526, which were dishonoured on presentation. Therefore, applicant/accused is not entitled for confirmation of bail.

5. I have heard the learned counsel for the parties and perused the material available on record. The case of the prosecution is that the complainant is doing business of property and transport. In the month of August, 2020, he has purchased a car from the present applicant/accused at total consideration of Rs.45 lacs and for which, he has paid two cheques which were cashed by the applicant/accused. However, the complainant came to know that the said car is registered in the name of bank as such he asked the applicant/accused to return the said amount in lieu thereof, applicant/accused has given him two cheques amounting of Rs.45 lacs which became dishonoured on presentation; hence, the ingredients of Section 489-F are very much applicable in this case. Prima facie sufficient material is available on record to connect the applicant/accused with the commission of alleged offence. No ill-will or enmity has been suggested against the complainant or the prosecution to believe that the applicant/accused has falsely been implicated in this case.

6. 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.

7. In view of the above, learned counsel for the applicant/accused has failed to make out a 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 25.02.2021 is hereby recalled and the bail application is **dismissed**.

8. 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 on merits.

JUDGE

Kamran/PA