

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

**Mr. Justice Amjad Ali Sahito**

Criminal Bail Application No.1108 of 2021

Applicant : Shahnawaz S/o Abdul Saeed  
Through Syed Saeed Hasan Zaidi  
Advocate

Complainant : Ghayasuddin Ahmed S/o Ameenuddin  
Ahmed  
Present in person.

Respondent : The State  
Through Mr. Siraj Ali Khan,  
Addl. Prosecutor General, Sindh.

Date of hearing : 08.07.2021

Date of order : 08.07.2021

## **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.42/2021 registered under Section 489-F PPC at PS Haidry Market, after his bail plea has been declined by Vth Additional Session Judge, Karachi Central vide order 10.06.2021.

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 has mainly contended that applicant/accused is innocent and has falsely been implicated in this case; that the alleged cheque has been issued by the applicant/accused to one Abdul Waheed, who had given the same to the complainant, otherwise he has no role in this case; that the applicant/accused has no direct business transaction with the complainant; that the maximum punishment for this offence provided under the law is 3 years which does not fall under the prohibitory clause,

therefore, the applicant/accused is entitled for confirmation of pre-arrest bail.

4. On the other hand, complainant present in person submits that there is a business transaction between Abdul Waheed and the applicant/accused, as such, he is very much involved in this case. He further submits that no malafide or ulterior motive has been pleaded by the applicant/accused against him. Learned APG has also opposed for confirmation of bail to the applicant/accused.

5. I have heard the learned counsel for the parties and perused the material available on record. From the face of FIR, it appears that a cheque bearing No.10049591 amounting to Rs.968,745/- was given by the present applicant/accused to one Abdul Waheed, who had given the same to the complainant. Thereafter, the complainant deposited the said cheque in the Meezan Bank, which was dishonoured with endorsement of **“insufficient funds”**; hence, 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 commission of the offence.

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 16.06.2021 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 applicants on merits.

Kamran/PA

JUDGE