

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No.2443 of 2021

Applicant : Ali Adnan s/o Muhammad Ashraf, through
Mr. Hassaan Sabir, advocate

Respondent : The State, through Mr. Hussain Bux Baloch,
Additional Prosecutor General.

Complainant : Mst. Saeeda Arif, through Mr. Raheel Samsam
Ali Khan, advocate

Date of hearing : 17.05.2022
Date of order : 17.05.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Applicant/accused Ali Adnan s/o Muhammad Ashraf through instant Cr. Bail Application seeks pre-arrest bail in Crime No.408 of 2021, registered under sections 406 & 420, P.P.C. at P.S. Clifton, Karachi. His earlier bail application bearing No.4456 of 2021 was dismissed by the learned Additional Sessions Judge-VI, Karachi-South vide order, dated 13.12.2021. He was admitted to interim pre-arrest bail by this Court vide order, dated 31.12.2021, now the matter is fixed for confirmation of interim bail or otherwise.

2. It is alleged that complainant Mst. Saeeda Arif, a doctor by profession, had given a sum of Rs.13,50,000/- to applicant in the month of June 2020 for booking of Studio Apartment and a plot in Bahria Town, Karachi through cheque and cash but he neither gave her any document nor returned her amount, and on demand he issued threats to her, for that he was booked in the aforesaid F.I.R

3. Learned counsel for the applicant contends that the applicant is innocent and has nothing to do with the alleged offence, who has falsely been implicated in this case by the complainant with mala fide intention and ulterior motives in order to harass and humiliate him; that the alleged offence does not fall within prohibitory clause of Section 497, Cr, P.C.; therefore, the applicant is entitled for the grant of bail.

4. On the other hand, learned counsel for the complainant as well as learned Additional Prosecutor General opposes the grant of pre-arrest bail to applicant on the ground that he is nominated in the F.I.R. with specific role of receiving alleged amount; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled for the concession of bail.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It is an admitted position that the applicant is a real estate agent and doing his business in Bahria Town. The complainant got a plot and an apartment booked through the applicant; however, she failed to make payment as per schedule, for that the applicant also served a notice upon her, dated 27.08.2021. The instant F.I.R. was lodged by the complainant subsequently on 02.09.2021; hence, mala fide and ill-will on the part of complainant for lodging of F.I.R. cannot be ruled out. The dispute between the parties appears to be of a civil nature. Liability of the applicant is to be determined after recording evidence of the parties. The offence under section 420, P.P.C. is bailable while it is yet to be established at trial if the provisions of section 405 & 406, P.P.C. are attracted.

7. For the foregoing facts and reasons, the interim bail granted to the applicant vide order, dated 31.12.2021 is confirmed on the same terms and conditions.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

JUDGE