

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 299 of 2022**

Applicant : Akhtar Ali Bhatti s/o. Muhammad Yousuf,  
through Mr. Fayyaz Ahmed, advocate

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

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Date of hearing : 01.06.2022  
Date of order : 01.06.2022

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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Akhtar Ali Bhatti s/o. Muhammad Yousuf seeks post-arrest bail in Crime No. 1455/2021, registered at P.S. Preedy, Karachi under section 489-F, P.P.C. His first bail application bearing No. 96/2021 was dismissed by the learned VIII<sup>th</sup> Judicial Magistrate, Karachi-South vide order, dated 23.12.2021 thereafter second bail application bearing No. 4757/2021 was dismissed by the learned Additional Sessions Judge-X, Karachi-South vide order, dated 11.01.2022.

2. It is alleged that the applicant issued a cheque, dated 02.09.2021, amounting to Rs. 1,00,00,000/- to M/s. Alif Industries Pvt. Ltd., which was returned by the bank un-paid for the reason "*payment stopped by the drawer*" on being presented for encashment, for that he was booked in the F.I.R., lodged by Shahid Naeem, the General Manager of the said Company.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case by the general manager of the Company in order to harass, humiliate and disgrace him in the society and to extort money from him as he started buying material from some other supplier, which annoyed the proprietor of the Company; that there is no direct or indirect evidence against the applicant to connect him with the commission of alleged offence; that there is delay of 21 days in lodging of the F.I.R. for which no plausible explanation has been furnished; that there were some business

transactions between the parties and the applicant issued some cheques to the Company, which were never dishonored; that the alleged offences does not fall within the prohibitory clause of section 497, Cr.P.C.; that the applicant is behind bars since day of his arrest i.e. 04.12.2021; however, the trial has yet not been concluded and the delay in trial is not on the part of the applicant; hence, he is entitled to the concession of bail. In support of his contentions, learned counsel relies upon the case of *Shahid Aslam v. The State* (2022 SCMR 737).

4. On the other hand, learned Additional Prosecutor General opposes the grant of bail to applicant on the ground that he purchased sanitary items of huge value from the Company but failed to discharge his liability and dishonestly issued the alleged cheque, hence this application merits dismissal.

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

6. It appears that the applicant, being proprietor of Unique Traders, purchased items of sanitary-ware from the Company amounting to Rs.8,300,000/- for which he issued cheque of Rs.10,000,000/- and directed the representative of the Company to send him items for remaining amount of Rs.1,700,000/-; however, the cheque was returned by the bank un-paid on account of stop payment, which fact was brought into knowledge of the applicant; however, he failed to discharge his liability. The applicant has not disputed purchasing of sanitary items of huge amount from the Company, issuance of alleged cheque and returning thereof un-paid due to "stop payment". The applicant has also failed to assign any cogent reason for stopping the payment after issuance of the alleged cheque, which shows that he firstly dishonestly issued the cheque towards fulfillment of his obligation knowingly that he would not have sufficient amount in his account on the day of its encashment and then he asked the bank to stop payment to protect himself from

the criminal consequences. He has also failed to establish any malafide on the part of the complainant to implicate him falsely in this case. Prima facie, prosecution has sufficient evidence to connect the applicant with the commission of alleged offence, which though being punishable with imprisonment up to three years does not fall within the prohibitory clause of section 497 Cr.P.C. yet in such like cases the grant of bail is not a right of an accused but a concession. Moreover, the case diaries of the trial Court reveals that charge against the applicant was framed on 28.02.2022, while on 24.03.2022 Examination-in-Chief of complainant as well as I.O. were recorded; however, at the request of applicant cross-examination of the said witnesses was reserved, as his counsel was not present. Thereafter, on 07.04.2022 and 11.05.2022 complainant appeared before the trial Court for his cross-examination; however, at the request of applicant the matter was adjourned, which fact reflects that the applicant is not interested in conclusion of the trial and only wishes to be enlarged on bail for mala fide intention. The case-law cited by the learned counsel for the applicant being on distinguishable facts does not advance the case of the applicant for the grant of bail. Hence, instant criminal bail application is dismissed.

JUDGE

*Athar Zai*