

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S- 99 of 2021

For hearing of bail application.

Mr. Manzoor Hussain Mahessar Advocate a/w Applicant/Accused.
Mr. Shafi Muhammad Mahar, Deputy P.G for the State a/w Complainant.

Date of Hearing: 26-02-2021
Date of Order: 26-02-2021

ORDER

Aftab Ahmed Gorar J. On dismissal of his Bail Application by learned II-Additional Sessions Judge, Khairpur, vide order dated 03.02.2021, applicant / accused Abdul Qadeem son of Muhammad Idrees Kumbhar has approached this Court by filing instant Crl. Bail Application under Section 498 Cr.P.C, for pre-arrest bail in case FIR No. 01 of 2020, registered at P.S, F.M.Narejo, under Sections 489-F & 420 PPC.

2. Learned Counsel for the applicant contends that applicant / accused is innocent and has falsely been involved in this case by the complainant with malafide intention and ulterior motives; that there is inordinate delay of about three years in lodgement of the FIR, for which no plausible explanation has been furnished by the complainant; that infact cheques of the applicant were misplaced, for which he lodged such N.C at P.S, East-Zone Karachi regarding missing of his Wallet containing cheque book including subject cheques; that there is variation in the signature of applicant on both subject cheques with

some overwriting. Lastly, he prayed for confirmation of interim pre-arrest bail earlier granted to the applicant by this Court.

3. Conversely, learned Deputy Prosecutor General has vehemently opposed for confirmation of bail on the ground that alleged Cheques were issued by the applicant and huge amount of Rs.18 Lacs is involved in this matter; that delay is plausibly explained by the complainant in the FIR, hence, no malafide is apparent on the part of complainant to involve the applicant in the present case. He prayed for dismissal of instant bail application.

4. Having heard learned counsel for the parties and perused the entire record meticulously. Admittedly, the amount involved in the case is a huge amount of Rs. 18,00,000/- (Eighteen Lacs) and the two cheques issued by the present applicant for the said amount when presented before concerned bank were dishonoured and proper memos were issued. The delay has plausible been explained by the complainant for registration of FIR. Contention of learned counsel for the applicant that wallet of applicant having cheque book including subject cheques was lost at Karachi does not appeal to a prudent mind for the simple reason that it is not necessary to have cheque book in Wallet at every time, however, leaf(s) can be put in a wallet. It is also an admitted position that the summary suit No.38 of 2019 filed by the complainant against the applicant for recovery of the subject amount has also been decreed by learned 2nd Additional District Judge, Khairpur vide Judgment dated 05.12.2019, however, Civil Appeal No.01 of 2020 has been preferred by the applicant. It has also come on

surface there was dishonestly on the part of the applicant while issuing such Cheques of huge amount of Eighteen Lacs rupees in favour of the complainant. The issuance of cheques with 'dishonest' intention would not entitle the applicant for bail on the ground that there are monetary disputes between the parties, as the possibility of issuance of Cheques 'dishonestly' by the applicant could not be ruled out at this stage. Indeed, offence under section 489-F PPC is maximum punishment upto three years R.I. Apparently, the issuance of a fake and bogus cheques by the applicant in favour of complainant causes the financial murder of an innocent and law abiding citizen which is so dangerous and prejudice to the life, liberty and property of the complainant. It may not be out of place to mention here that the issuance of cheque of huge amount which is in turn 'dishonoured' has taken our society by storm so much so that such instrument is looked upon by the beneficiary with a degree of doubt and skepticism till it is honoured by the concerned bank. Such practice has also eroded the mutual trust of the general public and there are instances when people shy away from accepting cheques even from trustworthy persons. Moreover, no one is supposed to commit the financial murder of another member of the society. Even otherwise, it is settled that for deciding the bail application the Court has to observe the tentative assessment and deeper appreciation of evidence is not required and it will not be fair to go into discussion about the merits of the case at this juncture.

5. In the present case, the cheque for a huge amount was issued by the applicant with the knowledge that funds are not available in his bank account thus, there was prima facie element of dishonestly on the

part of the applicant and that the cheque was dishonoured at the bank's counter is now part of the record of the case. Thus, taking a tentative assessment of the available record, the applicant being prima facie linked with the commission of the offence is held disentitled to the concession of bail. Accordingly, the bail application is dismissed. Interim pre-arrest bail already granted to the applicant/accused Abdul Qadeem Kumbhar vide order dated 12.02.2021 is hereby recalled and surety is discharged. Applicant is present on interim pre-arrest bail. He is taken into custody and remanded to Central Prison-I Sukkur with directions to Jail Superintendent to produce him before concerned Court where his case is pending on the date when it is fixed. Let copy of this order be sent to learned trial Court for information.

6. Bail application stands disposed of in the above terms.

J U D G E