

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appln No.105 of 2021

Date

Order with signature of Judge

For hearing of bail application

23.08.2021

Mr. Muzzafar Hussain Solongi, Advocate for the applicant
along with applicant

Mr. Siraj Ali Khan, Addl. P.G. a/w SIP Sanaulah of PS
Darakhshan

Mr. Mumtaz Ali Khan Deshmukh, Advocate for the
complainant

AFTAB AHMED GORAR,J: Applicant Muhammad Faisal son of Muhammad Hanif is booked in case Crime No.643/2020 registered with Police Station Darkhshan, Karachi under section 489-F PPC approached this Court by filing the captioned application for pre-arrest bail. The applicant was granted ad-interim pre-arrest bail vide order dated 21.1.2021 and today it is fixed for confirmation or otherwise.

2. Learned Counsel for the applicant submits that the applicant is innocent and has falsely been implicated in this case by the complainant with malafide intention and ulterior motives. He further contended that there is unexplained delay of more than 3 days. He submitted that the applicant and complainant were business partners and joint account holders therefore, the cheque so bounced was lying with the complainant in respect of some business transaction and it was not given by the applicant dishonestly. He lastly added that the applicant is regularly appearing before the trial Court hence the interim pre-arrest bail granted to the applicant may be confirmed.

3. Learned Additional Prosecutor General opposed the confirmation of bail and submitted that the C.R.O of the applicant shows that he is habitual offender as it shows several cases registered against the applicant. He also submitted that the applicant has prima facie cheated

the complainant and the signature of the applicant on the bounced cheque cannot be denied, therefore, he is not entitled for concession of bail and the order of pre-arrest interim bail dated 21.1.2021 may be recalled.

4. Learned Counsel for the complainant adopted the arguments made by the learned Additional Prosecutor General and he further added that the applicant is a habitual is a previous convict. He has placed on record a copy of judgment passed in Crl. Conviction Appeal No.39 of 2013 whereby the applicant was convicted and sentenced for the period he has already undergone. Learned Counsel for the complainant further contends that the applicant is misusing the concession of bail as he has already jumped the bail on last date without any cogent reason. He also submitted that since as per C.R.O the applicant is involved in various criminal cases, hence he does not deserve any concession of bail and prayed that the interim bail granted to the applicant vide order dated 21.1.2021 may be recalled.

5. I have heard the learned Counsel for the applicant, learned Additional Prosecutor General assisted by the learned Counsel for the complainant and perused the record available before me.

6. Record reflects that the applicant had obtained pre-arrest bail from this Court on 21.1.2021 thereafter jumped the bail and remained fugitive from the law without any plausible reason. The applicant though appeared before the Court today on execution of bailable warrants issued against him through the concerned SHO, however he has neither filed any application for condonation of his absence nor justified his non-appearance on the last date before the Court. The C.R.O of the applicant also shows that he is involved in various cases whereas the learned Counsel for the complainant has placed on record a copy of judgment passed by this Court whereby the applicant was convicted and sentenced for the period he has already undergone.

7. It is well settled principle of law that the Court has to observe the tentative assessment while deciding the bail applications, thus taking a tentative assessment of the available record, the applicant prima facie found to be involved in several cases, as such the applicant is not entitled to the concession of bail especially when the earlier jumped ad-interim bail granted to him vide order dated 21.1.2021 without any justification. Consequently, the interim pre-arrest bail granted to the applicant vide order dated 21.1.2021 is recalled. The applicant is present in Court, he is taken into custody and remanded to Central Jail, Karachi.

8. The observations made herein above are tentative in nature and should in no way prejudice/influence the proceedings before the learned trial Court where the case of the applicant be decided on its own merits according to law.

9. This criminal bail application stands disposed of in the above terms.

JUDGE