

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appln No. 1392 of 2021

Date	Order with signature of Judge
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For hearing of bail application

26.11.2021

Mr. Javed Ahmed Chhatari, advocate for the applicant a/w
applicant

Mr. Zahoor Shah, APG

Mr. Zahid Farooq Mazari, advocate for complainant

Aftab Ahmed Gorar, J.:- The applicant Muhammad Nouman Raheem son of Muhammad Inam Raheem, booked in FIR No.502/2021 under section 489-F PPC registered with Police Station Gulistan-e-Jauhar, Karachi, was admitted to pre-arrest bail vide order dated 19.07.2021 and today the matter is fixed for confirmation of said pre-arrest bail or otherwise.

2. I have heard the learned counsel for the parties and perused the record.

3. Learned counsel for the applicant reiterated the grounds mentioned in the memo of bail application and further added that the cheque giving rise to this FIR was not given by the applicant to the complainant rather he has stolen as being business partner of the applicant. He further contended that since the complainant had stolen several cheques of the applicant therefore, the applicant also moved such application to the SHO Gulistan-e-Jauhar P.S. He submitted that the FIR has been lodged with inordinate delay of 15 days for which no plausible reason has been given. He submitted that the offence does not fall within the ambit or prohibitory clause of Section 497 Cr.P.C. and therefore prays for confirmation of interim bail granted to the applicant.

4. Learned counsel representing the complainant opposed the confirmation of bail on the ground that the applicant has dishonestly issued the cheques in question knowing that no sufficient funds are available in his account and the stealing of cheques is a concocted story as if the same were stolen the applicant must have informed the bank for stopping payment. He further contended that the signatures on the cheques in question are not denied, hence he prayed that bail application may be dismissed.

5. Learned Additional Prosecutor General Sindh while adopting the arguments of learned counsel for the complainant contended that there is sufficient material available with the prosecution which connects the applicant with the commission of alleged offence. He appraised the court that applicant had not joined the investigation; hence he opposed the confirmation of pre-arrest bail earlier granted to applicant.

6. Though the plea taken by the learned Counsel for the applicant that the applicant and complainant are business partners hence the complainant stolen several cheques of the applicant, which were later presented and got dishonoured but he failed to place on record any earlier business transaction in support of his version. Perusal of record also reflects that no such prompt application is annexed with the instant pre-arrest bail application though such ground is taken. Even otherwise, if said ground is considered, material available on record reveals that application for stolen cheque was moved by the applicant after registration of dishonouring a cheque, which seems to be afterthought and moved just to create ground for himself to obtain bail. On query Court, learned Counsel for applicant failed to justify as to why the applicant kept multiple cheques signed, which were allegedly stolen.

7. During the course of arguments, learned Additional Prosecutor General Sindh has stated that after obtaining pre-arrest bail, the applicant has not joined the investigation. The above argument of learned Deputy Prosecutor General Sindh is not controverted by the learned counsel for the applicant as he has not uttered a single word in this regard. It is well settled that, grant of bail before arrest is an extraordinary relief to be granted only in extraordinary situations to protect innocent persons against victimization through abuse of law for ulterior motives and after obtaining such relief, the accused/applicant requires to join the investigation or trial but in the present case the applicant did not comply with the order, thus only this very ground disentitles the applicant from grant of extraordinary relief of pre-arrest bail. Moreover, the applicant-accused has failed to show a single malafide on the part of complainant/ prosecution to falsely implicate him in the case and there appear no reasonable ground to believe that he was not guilty of the offence alleged against him. 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. Resultantly, the interim pre-arrest bail granted to the applicant vide order dated 19.07.2021 is recalled and the Bail

Application is dismissed. The applicant is present in court he is taken into custody and remanded to Central Jail, Karachi.

8. The above bail order has been passed by me in the format prescribed by the Honorable Supreme Court in the case of Nazir Ahmed Vs The State reported in P.L.D 2014 S.C 241, whereby I have not reproduced the entire contents of the FIR.

9. Before parting with this order, it is directed that any observations recorded in this order, being purely tentative in nature, should in no way prejudice the proceedings before the learned trial Court where the case be decided on its own merits.

10. However, learned trial Court is directed to conclude the trial within two months from the date of receipt of this order and submit compliance report with the MIT-II of this Court.

JUDGE