

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 2383 of 2021

Applicant : Khurram Ali s/o Muhammad Aslam,
through Mr. Ali Ahmed Zaman Patoli,
advocate.

Respondent : The State, through Ms. Rahat Ehsan,
Additional Prosecutor General.

Complainant : Siyawal Khan, through Mr. Majid Ali Gill,
advocate

Date of hearing : 24.03.2022
Date of order : 24.03.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Khurram Ali s/o Muhammad Aslam seeks pre-arrest bail in Crime No. 886 of 2021, registered under section 489-F, P.P.C. at P.S. Boat Basin, Karachi. His earlier bail application for the same relief bearing No. 4405 of 2021 was dismissed by the learned Additional Sessions Judge-II, Karachi-South vide order, dated 16.12.2021. He was admitted to interim pre-arrest bail by this Court vide order, dated 17.12.2021, now the matter is fixed for confirmation of interim bail or otherwise.

2. It is alleged that, on 27.09.2021, complainant supplied 25000 liters of petroleum product amounting to Rs.2,700,000.00 to the applicant at Satellite Town, Mirpurkhas, Islamkot Mithi for that the applicant paid him cash of Rs.7,00,000/- and for remaining amount of Rs.2,000,000.00 he issued a cheque, which was dishonored by the bank on being presented.

3. Heard and record perused.

4. It appears that the complainant claims to have supplied to applicant petroleum product amounting to Rs.27,00,000/- but he did not mention in the F.I.R. the date of alleged supply. The complainant has also not mentioned the

description of the alleged petroleum product and mode of delivery; so much so, no name of Transport Company and/or Bilty Number through/under which the alleged supply was made, has been mentioned by him. It is also an admitted position that alleged cheque was a cash cheque and was not issued on the name of the complainant. Record shows that the applicant had already submitted, eleven years before lodging of the instant F.I.R., an application with Manager of the Bank on 05.11.2009, for stopping of payment against the cheques No. 8747211 to 8747250 on account of misplacing of cheque book; hence, the guilt of the applicant requires further probe.

5. It may be observed that the offence under section 489-F, P.P.C. is though non-bailable but does not fall within the prohibitory clause of section 497, Cr.P.C. Prima facie, section 489-F, P.P.C. is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. It is only to determine the guilt of a criminal act and award of a sentence, fine or both as provided under section 489-F, P.P.C. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception. Accordingly, the interim bail already granted to the applicant vide order dated 17.12.2021 is confirmed on same terms and conditions.

6. 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

Cr. Bail Application stands disposed of.

JUDGE