

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CR. BAIL APPLICATION NO.2053/2021

Date

Order with signature of Judge

For hearing of bail application.

22.02.2022

Mr. Fida Muhammad Khan advocate alongwith applicant.
Mr. Ghulam Akbar Khan Lashari advocate for complainant.
Mr. Talib Ali Memon, APG.

.....

The applicant Ghulam Yaseen seeks pre-arrest bail in
FIR No.671/2018, under section 489-F PPC, PS Darakhshan,

2. Counsel for applicant contends that prosecutor story is false; that alleged huge amount was handed over to Tanvir who handed over to applicant but no receipt or sale agreement was produced, that no suit for recovery of alleged amount was filed, offence is not falling within prohibitory clause.

3. In contra learned counsel for complainant argued that accused is an estate agent, has committed fraud with many people including complainant and deprived them of their valuable money and admittedly he issued cheque knowingly that they will be dishonoured: cheque issued to complaint was also with malafide intentions, when accused came to know that cheque has been bounced he absconded for these fears.

4. At the outset it would be pertinent to mention that scope of pre arrest bail is limited. In the case of Rana Abdul Khaliq (2019 SCMR 1129) it has been held that :-

“2. Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges

through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation. Ever since the advent of Hidayat Ullah Khan's case (PLD 1949 Lahore 21), the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of mala fide, ulterior motive or abuse of process of law, situations wherein Court must not hesitate to rescue innocent citizens; these considerations are conspicuously missing in the present case. The case referred to by the learned Judge-in-Chamber unambiguously re-affirms above judicial doctrine and thus reliance being most inapt is unfortunate to say the least.”

5. This is a case where accused is named in the FIR with allegation that cheque of Rs.50,00,000/- was issued by the applicant was dishonoured. It is admitted position that applicant/accused remained in absconsion for more than three years and it is unbelievable that he would be having no knowledge about lodgment of the FIR when cheque was bounced; the applicant approached the court only after he got stuck with the blockage of his CNIC. From the facts and circumstances of the case it does not appear that he had no knowledge of the pendency of present crime against him. No reasonable ground exists to confirm the interim pre arrest bail already granted hence same is hereby recalled. The bail application is therefore dismissed.

J U D G E