

IN THE HIGH COURT OF SINDH AT KARACHI
Crl. Bail Application No. 1803 of 2020

Date

Order with signature of Judge

For hearing of bail application

26th January 2021

Mr. Abdul Majeed Khoso, advocate for applicant/accused.

Mr. S.M. Nehal Hashmi, advocate for the complainant.

Mr. Fahim Hussain Panhwar, DPG.

Salahuddin Panhwar J- Through instant Crl. Bail Application, applicant Abid Iqbal Ansari seeks bail before arrest in FIR No.420/2020 for offence u/s 489-F PPC, registered at P.S. Aziz Bhatti, Karachi.

2. Precisely, relevant facts are that on 13.08.2020 at about 12:35 a.m. the complainant Ahsan Khan registered an FIR at P.S Aziz Bhatti, Karachi alleging therein that he works as transporter; that in January, 2020 he made contract with one Abid Iqbal Ansari for purchasing of 4 Shops, situated in CTC Plaza, Clifton, Karachi for sale consideration of Rs.24,00,000/- out of which he paid an amount of Rs.22,25,000/- to him and has a receipt of such payment and original file one shop; that all 4 shops are registered in the name of his son namely Amir Iqbal Ansari and the applicant/accused informed that his son will come in Pakistan on Eid-ul-Fitar from abroad and thereafter, he would transfer the said shops in his name and also hand over the possession of said shops to him; that after Eid, complainant contacted with applicant who informed him that his son did not come on Eid, therefore, complainant demanded return of his amount, but he gave lame excuses and ultimately, the applicant gave one cheque bearing No.0000000011, amounting to Rs.20,00,000/- of Faisal Bank Limited, Gulshan-e-Iqbal which upon deposit was bounced due to insufficient funds; hence, referred FIR was registered against applicant/accused.

3. Perusal of FIR reflects that there was contract between complainant and accused with regard to four shops for a sale consideration of 24,00,000/- and out of that amount, Rs.22,25,000/- were paid, however, possession was not

handed over; hence applicant issued cheque of Rs.20,00,000/-in favour of complainant, but the same was dishonored.

4. Learned counsel for the applicant/accused contends that in fact all cheques were taken by force; such intimation was duly given to the bank. He has further emphasized that case has been challaned and only four witnesses are to be examined. He lastly submitted that applicant has filed suit No. 1192 of 2020 against different persons.

5. In contra, learned counsel for the complainant contends that applicant/accused while serving in SBCA as Assistant Director committed fraud with various persons being habitual he is not entitled to get concession of pre-arrest bail. Whereas, learned DPG contends that criminal history of present applicant/accused shows that eight other cases in different police stations have been registered against the applicant.

6. Heard learned counsel for the respective parties.

7. Admittedly, offence is not falling within prohibitory clause but this case is of unique features; it is not disputed that applicant was not serving as Assistant Director in SBCA and issuance of cheques and lodgment of FIRs since 2015 against him shows that he is habitual offender; in cases of pre-arrest bail, scope of bail is very limited and applicant is required to establish his case that complaint/FIR is lodged with ulterior motive and with malafide intention blatantly or patently, which the counsel for the applicant has failed. Moreover, it is settled principle 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. Accordingly, instant bail application is dismissed; interim pre-arrest bail is hereby recalled.

8. Needless to mention that the above observations are purely tentative in nature and would not prejudice to the merits of case.

J U D G E