

IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 1777 of 2022

Date	Order with signature of Judge
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Date of hearing:- 13.10.2022

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Mr. Arun Parsad, advocate for applicant
 Ms. Seema Zaidi Additional Prosecutor General Sindh
 M/s Aneel Kumar and Anand Kuma advocates for complainant

Salahuddin Panhwar, J.- It is alleged that four cheques were issued by applicant to the complainant out of whom cheque for Rs.40,00,000/- was bounced on its presentation, hence the complainant lodged FIR No.73/2022 under section 489-F PPC at PS Civil Line, Karachi. After having refused post-arrest bail, the applicant has preferred instant bail application under Section 498 Cr.P.C before this Court.

2. Learned counsel for the applicant/accused contended that applicant is innocent and has been falsely implicated in the present case by the complainant; that cheque book was stolen by the complainant and after putting fake signatures, he deposited the cheque in account of the applicant, which is dormant since last two years; that signature and thumb impression on Iqrar Nama, empty stamp papers and on several cheques were taken by the applicant during police custody; that the complainant has failed to produce any documentary evidence showing that any amount is given to the applicant; that applicant has also filed a civil Suit for Declaration, Cancellation of Documents and Permanent Injunction against the complainant; that the offence with which the applicant is charged is not falling within the prohibitory clause of section 497 Cr.P.C, therefore, it is prayed that applicant may be admitted to bail. In support of his contentions, he relied upon the cases of Abdul Saboor vs. The State through A.G Khyber Pakhtunkhwa and another (2022 SCMR 592) and Nazir Ahmad alias Bhaga vs. The State and others (2022 SCMR 1467).

3. On the other hand, learned Additional Prosecutor General Sindh duly assisted by learned counsel for the complainant supported the impugned order by stating that cheques were issued by the applicant and out of whom first cheque of Rs.40,00,000/- deposited by the complainant,

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which on presentation was bounced, hence an offence under section 489-F PPC is made out, therefore, sought for dismissal of instant bail application.

4. Heard and perused the record.

5. In the present case, the complainant alleged that he deposited cheque amounting to Rs.40,00,000/-, which on presentation was dishonoured, due to insufficient fund/dormant account. This dishonouring of the cheque prima facie establishes a fact that the provisions of section 489-F PPC are fully attracted in the present case. Although the applicant has denied issuance of any cheque to the complainant and has claimed that the cheque book was stolen by the complainant during his visit to the applicant, at this stage, mere oral submission of the applicant cannot be given credence. The applicant has also claimed that the signature on the cheque has been forged by the complainant but record reflects that the cheque was dishonoured due to insufficient fund/dormant account and not because of forged signature, therefore, such submission also does not carry any weight. Learned counsel for the applicant then contended that a civil suit seeking cancellation of the cheques and other documents has been filed by the applicant before the Civil Court. Merely filing of a civil suit by the applicant would also not entitle the applicant for grant of bail. With regard to false implication of the applicant, it is a matter which could only be determined at trial and it is well settled that at bail stage only tentative assessment is to be undertaken.

6. The mere fact that the offence for which the applicant is charged does not attract the prohibitory clause of section 497, Cr.P.C. cannot per se make him entitled to the concession of bail. Grant of bail in such like cases is not a rule of universal application as each case merits decision on the basis of its own facts and circumstances. Reliance in this respect may advantageously be placed on the cases of **Muhammad Siddique v. Imtiaz Begum and 2 others (2002 SCMR 442)** and **Shameel Ahmed v. The State (2009 SCMR 174)**.

7. As to the case laws cited by the learned counsel for the applicant, in support of his submissions, the facts and circumstances of the said cases are distinct and different from the present case, therefore, none of the precedents cited by the learned counsel for the applicant are helpful to the case of the applicant.

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8. For the foregoing reasons, I am of the view that the applicant/accused is not entitled to the concession of bail at this stage of case. Accordingly, the bail plea is hereby dismissed. However, while parting the trial Court is directed to conclude the trial within a period of one month. These are the reasons for the short order.

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

JUDGE

Sajid