

HIGH COURT OF SINDH, CIRCUIT COURT AT HYDERABAD

Cr. Bail Application No.S-904 of 2022 [Sawan versus The State]

Date

Order with signature of Judge

ORDER **20.01.2023**

Mr. Faisal Nadeem Abro, advocate for applicant

Mian Taj Muhammad Keerio advocate a/w Complainant

Ms. Safa Hisbani, Assistant P.G Sindh

KAUSAR SULTANA HUSSAIN J.- Through this bail application, applicant seeks post-arrest bail in Crime No.67 of 2022 registered at P.S Matiari for offence punishable under Section 489-F PPC. Same plea was raised by him before the learned trial Court, but it was rejected vide Order dated 05.08.2022.

2. Background of the case, as unfolded by the Complainant Makhdoom Suhrah, is that he allegedly entered into a sale agreement with applicant/accused in respect of agricultural land against total sale consideration of Rs.3,50,00,000/-, which he allegedly paid at the time of agreement, however, later on it was disclosed that documents of said property were not correct, as such sale transaction was cancelled and on demand of return of paid money accused allegedly issued him Cheque of Rs.1,30,00,000/-, which on presentation before the concerned Bank returned bounced, which necessitated registration of FIR.

3. Learned counsel for the applicant/accused contends that applicant is innocent and has falsely been implicated in above crimes by the Complainant with malafide intentions and ulterior motives; that there is delay of about eight months in registration of FIR without explanation; that there is no documentary proof, which may substantiate the allegation of Complainant; that in fact applicant/accused was driver of Complainant and his Cheque Book was stolen and then various Cheques were issued with his fake signatures, which is supported by the fact that similar FIRs have been registered against him at same police station and that the offence alleged against the applicant/accused is bailable in nature. He prayed that applicant may be admitted to bail.

4. On the other hand learned APG, assisted by learned counsel for the Complainant, vehemently opposed the grant of bail by arguing that applicant is cheater person and he cheated various innocent persons, including Complainant of present Crimes in such like manner and that trial is at its verge, therefore, grant of

bail at this stage will seriously prejudice the case of prosecution, therefore, captioned bail application may be dismissed.

5. I have heard the learned counsel for the parties and have also perused the material available on record.

6. One of the important ingredients for the commission of an offence u/s 489-F PPC is that the cheque in question should have been issued for the satisfaction of a loan or fulfillment of an obligation. At this stage except verbal arguments, there is no documentary proof before me, which may substantiate the claim of the Complainant that the cheques were issued in connection with the repayment of amount allegedly paid in respect of sale transactions, said to have been cancelled at later stage. However, there is a possibility that such a document is in possession of the Complainant. Be that as it may, it is an admitted position that accused is in custody since his arrest, but still trial has not yet been concluded, coupled with the fact that offence 489-F PPC carries sentence up to three years and it does not fall within the prohibitory clause of section 497 Cr.P.C. Keeping in view the principles enunciated by the Hon'ble Supreme Court in the cases of Sheikh ABDUL RAHEEM vs. The State [2021 SCMR 822] and RIAZ JAFAR NATIQ vs. MUHAMMAD NADEEM DAR and others [2011 SCMR 1708], I do not find any exceptional or extraordinary circumstances, which would merit dismissal of captioned bail application.

7. In view of the above the case of applicant requires further inquiry. The applicant is, therefore, admitted to post-arrest bail in subject crime, subject to his furnishing a solvent surety in the sum of Rs.5,00,000/- (Rupees Five Lacs) and a P.R. Bond in the like amount to the satisfaction of the learned trial Court.

8. Needless to mention here that observations made hereinabove are tentative in nature and the same may not prejudice the case of either party at trial. However, learned trial Court is directed to expedite the trial and conclude it within a period of two months from the date of receipt of this Order. It is also made clear that if at any stage applicant/accused misuses the concession of bail, the learned trial Court shall be competent to take action against him in accordance with law, without making reference to this Court.

9. Instant bail applications stand disposed of accordingly.

JUDGE