

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2208 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

24-01-2023

Mr. Jamshed A. Shaikh, Advocate a/w applicant.
Ms. Robina Qadir, Addl.P.G.

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Omar Sial, J: Ms. Shermeen Naviwala has sought pre-arrest bail in crime number 753 of 2022 registered under sections 489-F and 406 P.P.C. Earlier, her application seeking bail was dismissed on 22.10.2022 by the learned 3rd Additional Sessions Judge, Karachi East.

2. A background to the case is that the aforementioned F.I.R. was registered on 09.09.2022 on the complaint of one Mohammad Sohaib. Sohaib recorded that on 17.03.2022 he had rented out his vehicle to the applicant's son by the name of Nehal. It was alleged that Nehal sub-let the vehicle to some other person and after the passage of time, Nehal's mother (the applicant) agreed to buy the vehicle from Sohaib. She gave a cheque to Sohaib for this purpose in the amount of Rs. 1,675,000, which bounced upon presentation.

3. I have heard the learned counsel for the applicant as well as the learned Addl.P.G. The complainant chose to remain absent despite notice and being fully aware of the hearing. My observations and findings are as follows.

4. The applicant absolutely denies that she ever issued a cheque to Sohaib. Prima facie there might be some truth to the assertion as the memo issued by Bank Al-Habib while returning the cheque records that apart from insufficient funds in the account, the signature on the cheque also differs from that of the holder of the bank account. The truth can only be unearthed after evidence is led at trial. The prosecution relies on a

vehicle rent agreement entered into between Sohaib and Nehal (the son of the applicant). Whether or not the disputed cheque, if issued by the applicant, was for the purpose of satisfying a loan or fulfilling an obligation can also only be determined after evidence is led at trial. Nehal has been granted bail. It is quite obvious from the record that a business relationship between Nehal and Sohaib turned sour and in Sohaib's quest to address his grievance, malafide on his part to involve Nehal's mother in the case, cannot be conclusively ruled out at this preliminary stage. An offence under section 489-F P.P.C. though not bailable falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping the principles of Tariq Bashir and 5 others vs The State (PLD 1995 SC 34) in mind, I find no exceptional or extraordinary reason to deny the applicant bail. The applicant's gender also tilts the balance for grant of bail in her favour.

5. Above are the reasons for the short order dated 19.01.2023.

JUDGE