

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-313 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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03.10.2022

Mr. Badaruddin Khoso advocate for applicant.

Mr. Manzoor Ali Siyal advocate for complainant.

Ms. Sana Memon, Assistant Prosecutor General.

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MUHAMMAD IQBAL KALHORO, J.- Applicant is alleged to have issued a cheque amounting to Rs.150000/- to complainant which on presentation in the bank was dishonored. Applicant is stated to be a property dealer. Complainant in all paid him Rs.20,60,000/- through installments for purchasing a house in Mehran Dream City Jamshoro against cost of Rs.30,00,000/-. It was agreed that after payment of 50% of total cost, registry would be transferred in favour of the complainant. However, he did not abide by the terms of agreement and instead issued him a cheque when the money was demanded from him by the complainant.

2. Learned defense counsel has submitted that applicant is innocent and has been falsely implicated in this case; there is delay in registration of FIR which has not been explained and the offence does not fall within prohibitory clause of section 497 CrPC.

3. On the other hand, learned counsel for complainant has opposed bail so also learned Assistant PG, she submits that applicant is a habitual offender and against him 05 cases of like nature by different people have been registered. Complainant counsel has submitted that recently two more FIRs of the same nature have been registered against him.

4. It may be pointed out that during hearing of this application, applicant had offered, in the court, to give a house to the applicant in the same housing society subject to payment of remaining amount of Rs.1000,000/-, which is duly recorded in the case diary dated 05.09.2022, and thereafter on next date 16.09.2022 when the matter was taken up, a date was sought by the complainant for

arranging the amount. However, today in the morning when the applicant appeared, complainant counsel stated that he was ready and had the money. Applicant was asked about documents of the house which he had proposed to sell but he had none and was therefore directed to bring the same within one hour. But, thereafter, he has disappeared, and despite this matter was taken two times before, he was called absent. Finally, the matter has been taken up now at 01:10 P.M. and still he is called absent. The prima facie evidence against him is in the shape of a dishonored cheque and the receipts of payments given by complainant to applicant amounting to Rs.20,60,000/-. Receipt of which even otherwise the applicant has not disputed as he had agreed to give a house to the complainant against payment of remaining sell amount of Rs.1000,000/- (ten lac) out of total cost of 30 lacs. It shows that applicant is prima facie involved in this case. Further, as pointed out, he has a criminal record as so many FIRs of like nature have been registered against him which fact cannot be ignored at least for deciding an application for pre-arrest bail. Moreso, by his conduct: making an offer to complainant for settlement but when the time came for action, his disappearance, has made him disentitled to indulgence of the court u/s 498 CrPC wherein malafide on the part of complainant, more than merits is to be seen for determining entitlement of the accused. No malafide on the part of complainant, can be alluded and none is present in the material. No case therefore for pre-arrest bail is made out in the circumstances.

5. Accordingly, this application is dismissed and applicant's ad-interim pre-arrest bail granted to him vide order dated 30.03.2022 is hereby recalled.

6. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE