

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1556 of 2020

Date Order with signature of Judge

For hearing of bail application:

15th March, 2021

Ms. Zainab Saleem, Advocate a/w applicant.
Mr. Zafar Ahmed Khan, Addl.P.G.

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Omar Sial, J: Nadia Mazhar has sought pre-arrest bail in crime number 224 of 2020 registered under sections 489-F, 420 and 34 PPC at Sharifabad police station. Earlier, her application seeking bail was dismissed on 9-10-2020 by the learned 1st. Additional Sessions Judge, Karachi Central.

2. A background to the case is that the aforementioned F.I.R. was lodged by Muhammad Nawaz Khan on 1-9-2020 narrating an incident that had occurred on 27-12-2019. He recorded that one year ago the applicant Nadia Mazhar and her husband Mazhar Ghani had taken a loan from him in the amount of Rs.1.2 million for the treatment of their mother. The applicant did not return the money and upon the complainant's request that the money be returned, the applicant's husband Mazhar Ghani issued a cheque for the disputed amount which when presented at the bank counter was dishonoured.

3. I have heard the learned counsel for the applicant as well as the learned Addl.P.G. The complainant did not effect an appearance despite notice. My observations are as follows.

4. The F.I.R. reflects that the cheque in question was issued not by the applicant Nadia Mazhar but by her husband Mazhar Ghani. Mazhar Ghani admittedly has been granted bail by the learned Ist. Additional Sessions Judge, Karachi Central and therefore following the rule of consistency the present applicant is also entitled to the same concession. Further, one of the important ingredients to establish an offence under section 489-F PPC is that the cheque which is dishonoured should have been issued for the satisfaction of a loan or

fulfillment of an obligation. Learned Addl. P.G. confirms that there is nothing on file to evidence that the cheque was for the satisfaction of a loan or fulfillment of an obligation. This aspect will have to be proved through evidence to be led at trial. I have also shown leniency in the matter due to gender of the applicant.

5. An offence under section 489-F P.P.C. carries a potential sentence of 3 years and though non-bailable falls within the non-prohibitory clause of section 497 Cr.P.C. No exceptional or extraordinary circumstances have been brought to my attention that would merit dismissal of this bail application.

6. In view of the above, the interim pre-arrest bail granted to the applicant is confirmed on the same terms and conditions.

JUDGE