

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1558 of 2020

Date Order with signature of Judge

For hearing of bail application:

2nd March, 2021

M/s. Saathi M. Ishaq, Serwet Israr and Sana-ur-Rehman Lodhi, Advocates
a/w applicant.

Mr. Abbad-ul-Hussnain, Advocate for complainant.

Mr. Hussain Bux Baloch, Addl.P.G.

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Omar Sial, J: Muhammad Saleem has sought pre-arrest bail in crime number 798 of 2020 registered under section 489-F P.P.C. at the Kharadar police station in Karachi. Earlier, his application seeking bail was dismissed by the learned 6th Additional District and Sessions Judge, Karachi South.

2. Background to the case is that Muhammad Shoaib Qureshi lodged the aforementioned FIR on 30-9-2020 reporting an offence that had occurred on 15.11.2018. Qureshi recorded that he drove a taxi and that 6 years ago he had entered into a transaction with the applicant's brother Nasir. The transaction did not go through so Qureshi demanded his money back. The applicant, allegedly on behalf of Nasir, issued 3 cheques, which cheques bounced upon presentation.

3. I have heard the learned counsels for the applicant as well as the complainant and the learned Addl.P.G. My observations are as follows.

4. There is a substantial delay in the lodging of the F.I.R. which at the moment remains unexplained. Further, the cheques allegedly issued are dated in the years 2018 and 2019, which too were presented at the bank counters for encashment after a substantially long time. Once again, no cogent explanation has been provided. The nexus of the applicant with the transaction is yet to be proved. The learned counsel for the complainant has been unable to produce the agreement that the parties entered into for the purchase of the property. It appears that a settlement agreement may have been entered into between the parties however the circumstances in which the same was entered into and how

that process unfolded still requires to be proved. No suit for recovery of money has been filed by the complainant and upon a tentative assessment it appears that criminal law may have been put into motion as an arm twisting tactic. Keeping the prima facie animosity between the parties in mind, malafide cannot be conclusively ruled out at this preliminary stage. An offence under section 489-F P.P.C. though not bailable carries a potential sentence of 3 years and hence falls within the non-prohibitory clause of section 497 Cr.P.C. There are no exceptional or extraordinary grounds to decline bail on this account.

5. Above are the reasons for the short order dated 22-2-2021.

JUDGE