

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 2299 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**29-03-2023**

Mr. Sajjad Farooque, advocate a/w applicant.

Ms. Robina Qadir, Addl.P.G.

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**Omar Sial, J:** Nasir Khan has sought pre-arrest bail in crime number 75 of 2022 registered under section 489-F P.P.C. at the Soldier Bazaar police station in Karachi. Earlier, his application seeking bail was dismissed on 28.10.2022 by the learned 3<sup>rd</sup> Additional Sessions Judge, Karachi East.

2. A background to the case is that the aforementioned F.I.R. was registered on 23.02.2022 on the complaint of one Qadir Baksh who reported an offence that had occurred between 16.06.2021 and 13.01.2022. Qadir reported that he had given an amount of Rs. 18,000,000 to the applicant who was his childhood friend on the basis that the applicant would give him a monthly profit on his investment. Rs. 1,800,000 was given by the applicant to the complainant but then the payments stopped. Qadir complained to Nasir on which Nasir gave him 3 cheques, which all bounced upon presentation.

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 being at notice. My observations and findings are as follows.

4. The learned Addl.P.G. has been unable to show to me any evidence which would prima facie prove that the amount alleged to be owed by the applicant to the complainant was given to him. She has however referred to an agreement ostensibly entered into between the two men. Prima facie this agreement shows that the complainant has agreed that no amount is owed to him. One important ingredient for an offence under section 489-F

to have occurred, is that the cheque in question should have been given for the fulfillment of an obligation or satisfaction of a loan. Whether the cheques were actually issued by the applicant and if yes, for what purpose were they given, is an area for further inquiry.

5. The applicant and the complainant are friends turned foes; however, the fact that the complainant cannot show any evidence that such a large amount was given and nothing in writing was taken to evidence the same coupled with the presence of an agreement that prima facie shows no amount is owed by the applicant to the complainant, makes me, not exclude malafide at this preliminary stage in the allegation that has been made.

6. An offence under section 489-F P.P.C. although not bailable falls within the non-prohibitory clause of section 497 P.P.C. Keeping in mind the principles enunciated in Tariq Bashir and 5 others vs The State (PLD 1995 SC 34), I do not see any exceptional or extraordinary reason to deny the applicant bail.

7. Above are the reasons for the short order of earlier today.

JUDGE