

**IN THE HIGH COURT OF SINDH,  
BENCH AT SUKKUR**

**Cr. Bail Appln. No. S – 85 of 2023**

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Date

Order with Signature of Hon'ble Judge

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**For hearing of bail application**

**20.02.2023**

Mr. Liaquat Ali Shar, Advocate for the applicant  
Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General

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**ORDER**  
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**ZAFAR AHMED RAJPUT, J-** Through instant Criminal Bail Application, the applicant / accused, namely, Syed Sikander Shah S/o Syed Murad Shah, seeks post arrest bail in Crime No.22 of 2023 registered at Police Station, Daharki, District Ghotki, under Sections 406, 420 and 489-B PPC. His earlier application for the same relief was heard and dismissed by learned Additional Sessions Judge, Daharki, vide order dated 31.01.2023.

2. As per FIR, it is case of the prosecution that on 20.01.2023 at 1100 hours near Mangria Petrol Pump, the applicant was arrested being found in possession of forged currency notes of valued Rs.10000.

3. Heard learned counsel for the applicant as well as learned Deputy PG for the State, and perused the material available on record.

4. It is settled legal position that at bail stage deeper appreciation of the record cannot be gone into, but only tentative assessment is to be made just to find out as to whether the present applicant / accused is connected with the commission of the alleged offence or not. Applying the above settled legal position to the case of the applicant / accused, it will appear that *prima facie* the ingredients of Section 489-B, PPC are not met in the circumstances of the case,

at the best it can be the case of 489-C, PPC for which minimum punishment as provided to the extent of 07 years or with fine or with both, which does not fall within the prohibitory clause of Section 497 Cr.P.C. It has already been observed by the Single Judge of the Lahore High Court in the case of Muhammad Sajjad vs. The State (1996 P Cr. L J 815), as under;-

"(5) Possession simpliciter of a counterfeit currency note does not constitute ingredients of section 489-B, P.P.C. This section deals with the sale, purchase, receipt or otherwise trafficking of a counterfeit coins/currency notes. This section also deals " with use of a counterfeit currency note as genuine, whereas section 489-C, P.P.C. deals with possession of any forged or counterfeit currency notes. The contents of F.I.R. do not show that the petitioner was selling or buying the counterfeit currency note. The information was that the petitioner was in possession of a counterfeit note worth Rs.1,000 and the same was recovered from the possession of the petitioner. Hence prima facie the offence would fall under section 489-C, P.P.C. which is not punishable with 10 years' R.I. or more. The petitioner is not a previous convict and is no more required for further investigation."

While dealing with the provisions of section 489-B, P.P.C., learned Single Judge of Lahore High Court in the case of Muhammad Afzal (supra), has observed as under:--

"(6) From the bare reading of the case of possession of the counterfeit/ forged/fake currency notes is made out for which section 489-B, P.P.C., prima facie, does not apply because the provisions of section 489-B of P.P.C. refer to a situation when the person in possession of the counterfeit currency notes sells, buys or receives from any other person or otherwise traffics it or uses it as genuine, knowing or having reasons to believe the same to be forged and counterfeit. In the instant case, there is no allegation/accusation of such kind found in the F.I.R. I made a query from the Investigating Officer, present in Court, as to whether any evidence of sale and purchase was recorded by him during the investigation, to which he replied in the negative, therefore, the case of the petitioner prima facie falls within the offence of section 489-C, for which the punishment has been prescribed as to the extent up to 7 years or with fine or with both, which does not fall within the prohibitory clause of section 497, Cr.P.C."

5. The perusal of record indicates that the applicant / accused at the time of his arrest was neither exchanging nor buying nor selling or trafficking the bogus currency notes as genuine having knowledge to believe that the same were forged or counterfeit. The possession of the bogus currency notes is yet to be

proved through convincing evidence in the trial Court and the offence with which the applicant / accused has been charged with, *prima facie* falls under Section 489-B, PPC nor 489-C, PPC. Hence, the applicant / accused had made-out a case of further inquiry in terms of Sub-section (2) of Section 497, Cr.P.C, accordingly, he is admitted to bail on his furnishing solvent surety in the sum of **Rs.100,000/- (One hundred thousand)** and P.R bond in the like amount to the satisfaction of learned trial Court.

6. Needless to mention here that the observations made hereinabove are tentative in nature and will not prejudice the case of either party at the trial.

7. The bail application stands **disposed of** in the above terms.

Judge

ARBROHI