

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 2154 of 2022

Applicant : Asif Ahmed Khan s/o. Akbar Ahmed Khan,
through Mr. Abrar Hussain, advocate

Respondent : The State, through Ms. Rahat Ehsan,
Additional Prosecutor General.

Complainant : Nehaluddin Malik s/o. Salahuddin Malik (*nemo*)

Date of hearing : 14.06.2023
Date of order : 14.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Asif Ahmed Khan s/o. Akbar Ahmed Khan seeks pre-arrest bail in Crime No. 553 of 2022 registered under Section 489-F, P.P.C. at P.S. Sir Syed, Karachi. His earlier application for the same relief bearing No. 1452 of 2022 was dismissed by the learned Vth Addl. Sessions Judge, Karachi-Central, vide order dated 26.10.2022. He was admitted to interim pre-arrest bail by this Court, vide order dated 03.11.2022, now the matter is fixed for confirmation of interim bail or otherwise.

2. It is alleged that the applicant purchased electric appliances amounting to Rs. 4,200,000/- from the complainant and for that he issued a cheque in his favor, which was dishonored by the bank on being presented.

3. Heard and record perused.

4. It appears that the complainant claims to have sold out electric appliances amounting to Rs. 4,200,000/- to the applicant. As per F.I.R. out of said amount, Rs.1,300,000/- was already repaid by the applicant and now Rs. 2,900,000/- only remains to be paid. The details of sold electric appliances and supporting documents have admittedly not been produced by the complainant in investigation and thus the same are not the part of police papers available with the Addl. P.G. Hence, it is yet to be determined at the trial after recording evidence if the alleged cheque was issued by the applicant dishonestly towards re-payment of a loan or fulfillment of an obligation.

5. It may be observed that the offence under section 489-F, P.P.C. is though non-bailable but does not fall within the prohibitory clause of section 497, Cr.P.C. Prima

facie, section 489-F, P.P.C. is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. It is only to determine the guilt of a criminal act and award of a sentence, fine or both as provided under section 489-F, P.P.C. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception. Accordingly, the interim bail already granted to the applicant vide order dated 03.11.2022 is confirmed on same terms and conditions.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law

Cr. Bail Application stands disposed of.

JUDGE

Athar Zai