

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 242 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

10-04-2023

Mr. Muhammad Nizar Tanoli, Advocate a/w applicant.

Mr. Talib Ali Memon, A.P.G.

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Omar Sial, J: Mohammad Ansaar Zakai has sought pre-arrest bail in crime number 8 of 2023 registered under section 489-F P.P.C. at the Kharadar police station in Karachi. Earlier, his application seeking bail was dismissed on 31.01.2023 by the learned 10th Additional Sessions Judge, Karachi South.

2. Facts of the case are that the aforementioned F.I.R. was registered on 10.01.2023 on the complaint of one Mohammad Saeed. Saeed reported that he is in the business of trading in rice and that the applicant owed him Rs. 60,460,909. The applicant gave him 2 cheques aggregating approximately Rs. 1.7 million, which cheques bounced upon presentation.

3. I have heard the learned counsel for the applicant as well as the learned APG. None effected an appearance on behalf of the complainant. My observations and findings are as follows.

4. The learned APG confirms that there is no evidence on the police file which would show the trading in rice between the complainant and the applicant. Similarly, there is no evidence on file to support the contention of the complainant that an amount of Rs. 6 million was owed to him. I find this immensely strange that a transaction of such a huge amount remained undocumented. In view of the foregoing, it is still to be determined as to whether the cheques were given by the applicant and if it was whether the same was for the fulfilment of an obligation or satisfaction of a loan, as required by section 489-F P.P.C. I notice that there is a suit bearing number 1593 of 2022 filed by the applicant against the complainant seeking

cancellation of the cheques issued by him which is still pending adjudication. The case against the applicant is one of further inquiry, and as at the moment there is nothing that seems to substantiate the allegations, malafide on the part of the complainant in filing this case cannot be conclusively ruled out.

5. An offence under section 489-F carries a potential sentence of up to 3 years and although not bailable falls within the non-prohibitory clause of section 497 Cr.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 grounds to decline the bail application.

5. The interim pre-arrest bail granted to the applicant earlier stands confirmed on the same terms and conditions.

JUDGE