

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-1204 of 2022

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE</u>
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07.04.2023

Mr. Dilbar Khan Laghari advocate for applicant along with applicant on ad-interim pre-arrest bail.
Mr. Zafar Ali Laghari advocate for complainant.
Ms. Sana Memon, Assistant Prosecutor General along with IO/ASI Muzafar Hussain Abro PS Qasimabad.

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MUHAMMAD IQBAL KALHORO, J.- Applicant a showroom owner, is alleged to have issued a cheque of Rs.1,57,00,000/- to son of the complainant namely Uzair Sattar on account of sale/purchase of cars. Allegedly son of the complainant had sold applicant nine cars, four Alto cars and five Cultus cars against sum of Rs.1,97,00,000/-. Out of that amount he had paid him Rs.40,00,000/- in cash and of remaining amount he gave him a cheque which on presentation was dishonored. Investigating Officer submits that except dishonored cheque no further evidence such as registration number of the cars, name of the owners of the cars, the model number, the colour of cars or any agreement incorporating sale and purchase of the said cars by complainant was submitted in proof of selling of the cars to the applicant during investigation.

2. Applicant's counsel has drawn attention to various FIRs available in the file registered against the said son of complainant under the same provision of law i.e. 489-F PPC. One of FIR No.159/2022 has been registered by the applicant against the son of complainant. This shows that parties are in business terms and have been issuing cheques to each other and lodging FIRs. But, in any case section 489-F PPC is made out when either the cheque is issued in repayment of loan or in fulfillment of some obligations. This very basic ingredient is prima facie missing as per the statement of Investigating Officer present in court.

3. Although learned counsel for complainant and learned Assistant Prosecutor General have opposed bail but the facts as they stand are not in dispute.

4. In the circumstances case of further inquiry is made out and mala fide of the complainant who is mother of the original person with whom applicant had business relations and against whom he had already registered FIR cannot be ruled out. It has not been explained either as to why the said son of complainant himself has not come forward to register FIR against applicant, as per learned defense counsel against him so many FIRs have been registered by different people and he has escaped to Dubai.

5. Be that as it may, in view of above discussion, I am of the view that applicant has been able to make out a case for confirmation of bail. Accordingly, this application is allowed and applicant's ad-interim pre-arrest bail granted to him vide order dated 08.11.2022 is hereby confirmed on the same terms and condition.

6. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Ali Haider