

IN THE HIGH COURT OF SINDH KARACHI

CR. BAIL APPLICATION NO. 1902 OF 2023

Applicant : Ghulam Nabi,
through M/s. Riaz Ahmed Bhatti
and Allah Ditta Shaikh,
Advocates

Respondent : The State
through Mr. Muhammad Iqbal
Awan, Additional Prosecutor
General Sindh

Complainant : Syed Kareemullah Shah
Through Mr. Zahid Iqbal,
Advocate

Date of hearing : 16th October 2023

ORDER

Omar Sial, J: Ghulam Nabi has sought pre-arrest bail in crime number 275 of 2023 registered under section 489-F P.P.C. at the Sukhan police station. The learned 7th Additional Sessions Judge earlier dismissed his bail application on 23.08.2023.

2. The F.I.R. mentioned above was registered on 15.06.2023 on the complaint of Syed Kareemullah Shah. Shah reported that he purchased 22 plots of land from the applicant for an aggregate price of Rs. 14,300,000. Shah further alleged that he gave the applicant all the money, but the applicant did not transfer the title and instead sold the land to some other person. The applicant allegedly issued a cheque for Rs. 450,000, which bounced when presented at the bank counters for encashment.

3. I have heard the learned counsels for the applicant, the complainant, and the learned Additional Prosecutor General. My observations and findings are as follows.

4. I am very surprised at the learned counsel for the complainant's inability to provide any plausible evidence showing that 22 plots were agreed to be sold by the applicant to the complainant, nor that the complainant handed over such a large sum of money. It would be reasonable to presume at this stage that any party entering into such a big transaction would, at the minimum, document the transaction in writing. The said 22 plots remain unidentified at the moment as well. Malafide on the part of the complainant cannot be conclusively ruled out. At the moment, it cannot be said with certainty whether the cheque allegedly issued was for the satisfaction of a loan or the fulfilment of an obligation, an important ingredient for an offence under section 489-F P.P.C. to have occurred. This aspect is one of further inquiry.

5. An offence under section 489-F P.P.C., though not bailable, carries a potential sentence of up to three years and thus falls within the non-prohibitory clause of section 497 Cr.P.C. In view of the principles enunciated in Tariq Bashir and 5 others vs The State (PLD 1995 SC 34), I do not find any exceptional or extraordinary grounds to deny the applicant bail.

6. Given the above, the interim pre-arrest bail granted to the applicant is confirmed on the same terms and conditions.

JUDGE