

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
 Crl. Bail Application No. 2430 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

18-12-2023

Mst. Kehkashan Zafar, present in person
 Mr. Muhammad Iqbal Awan, Additional Prosecutor General

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Omar Sial, J: Applicant Mst. Kahkashan Zafar wife of Humayon Zafar, has sought pre-arrest bail in crime number 212 of 2023 registered under section 489-F P.P.C. at Joharabad police station. Earlier, her application seeking bail was dismissed on 16.10.2023 by the learned 1st Additional Sessions Judge, Karachi-Central.

2. A background to the case is that the F.I.R. above was registered on 25.06.2023 on the complaint of Faisal Aman Khan, who reported that in the year 2022 during course of a business transaction with Syed Aziz Zafar and Zaheer Zafar, they had given him a cheque amounting Rs.505,000/- from their joint account which bounced. Faisal Aman lodged FIR No. 536 of 2022 at Joharabad Police Station against them. Thereafter, as a result of a settlement, an agreement was executed between the parties, Mst. Kehkashan being mother of Syed Aziz Zafar and Zaheer Zafar had given two cheques in the sum of Rs.1600,000/- each but the said cheque also bounced on presentation.

3. I have heard the applicant present in person and the learned Additional Prosecutor General for the State. The complainant did not effect an appearance despite notice.

4. Mst. Kehkashan, the applicant present in court on bail submits that she is a household lady and the cheques were issued by her as a result of agreement entered between her sons and the complainant and

at that time her sons were in custody, however, the complainant with malafide intention misused the cheque and subsequently lodged a second FIR against her though she has no liability or obligation to pay the said amount to the complainant.

5. From the contents of the FIR, it appears that the complainant earlier lodged FIR No.536 of 2022 at Police Station Joharabad against two sons of Mst. Kehkashan and subsequently as a result of settlement arrived at between the parties, Mst. Kehkashan, who had no business relationship with the complainant, had given two cheques to the complainant. Mst. Kehkashan appears to be a household lady aged about 62 years. She has stated that since her sons were in custody, as such she issued cheque as security for their release and subsequently one of her sons died. There is nothing on record to suggest that there was any business transaction between the applicant and the complainant. The FIR was also registered after a delay of seven months and no plausible explanation has been put forward. It is still to be determined why the applicant gave the cheque and whether the same was for fulfilling an obligation or satisfaction of a loan, as required by Section 489-F PPC. The case against the applicant is one of further inquiry, and as of the moment, nothing seems to substantiate the allegations; malafide on the part of the complainant in filing this case cannot be conclusively ruled out.

6. Offence under sections 489-F P.P.C., though not bailable, carries a potential sentence of up to three years and thus fall 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.

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

JUDGE