

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1048 of 2023

Applicant : Basheer Ahmed S/o Abdul Aziz
Present in person

Respondent : The State
Through Mr. Abrar Ali Khichi,
Addl. P.G., Sindh

Date of hearing : 29.08.2023

Date of order : 29.08.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.403/2022 for the offence under Section 489-F PPC registered at PS KIA, after his bail plea has been declined by the learned IVth Additional Sessions Judge/MCTC, Karachi East vide order dated 29.04.2022.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. The instant bail application was presented on 15.05.2023 and fixed before the Court on the very same day when the applicant was granted interim pre-arrest bail and the matter was adjourned for 02.06.2023 for confirmation or otherwise. However, on 02.06.2023 the applicant was present but his counsel was called absent and the matter was adjourned for three weeks. Again on 26.06.2023, the matter was fixed when the applicant was present but his counsel was not in attendance, as such, the matter was adjourned for 25.07.2023. On 25.07.2023, once again the applicant was present and requested for adjournment as his counsel was not present. Again on 24.08.2023, the matter was fixed when both the applicant and his counsel were called absent, as such, the matter was adjourned for today. Today once again applicant is present and requests for adjournment as his counsel is out of station. His request is declined and learned Addl. P.G. is directed to read over the contents of the FIR. Thereafter, applicant argues that he is innocent and has falsely been implicated; that he

has given a cheque of Rs.9 lacs only for guarantee as such he has not committed any offence. He lastly prays for confirmation of bail.

4. On the other hand, learned Addl. also opposes for grant of bail on the ground that agreement is available on record which shows that in lieu of compensation, the applicant issued a cheque of Rs.9 lacs, which became dishonoured at the time of presentation.

5. Heard and perused. From perusal of record, it reflects that there was quarrel between the applicant and the complainant, as such, the applicant burnt four offices of the complainant. Thereafter, in lieu of compensation, he had issued a cheque of Rs.9 lacs bearing Cheque No.98742777, which became dishonoured at the time of presentation. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, the applicant knowingly issued the cheque that he had no sufficient amount in his account, as such, he has committed the offence of cheating and fraud with the complainant. The applicant has also not denied issuance of his cheque as well as from his signature. Further, when the complainant informed the applicant that the said cheque had dishonoured and demanded for money, he started issuing threats and dire consequences. The ocular evidence finds support from the other evidence. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for false implication in this case.

6. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of '**Rana Abdul Khaliq v. The STATE and others**' [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to

the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

7. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 15.05.2023 is hereby recalled.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA