

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 1850 of 2023

For hearing of Bail Application.

Applicant/ Accused : Mohsin Abdullah son of Muhammad Ilyas through Mr. Muhammad Sarmad Khan, Advocate.

Complainant : Dr. Atta Muhammad Panhwar son of Shah Muhammad Panhwar, through M/s. Asif Ali and Naseer Ahmed Panhwar, Advocates alongwith the Complainant, who is present in Court.

The State : Through Ms. Rahat Ehsan, Additional Prosecutor General Sindh.

Date of hearing : 20-09-2023

Date of order : 20-09-2023

FIR No. 253/2023
U/s: 489-F PPC
P.S. Boat Basin, Karachi

ORDER

Adnan Iqbal Chaudhry J. - The Applicant/Accused seeks post-arrest bail in the aforesaid crime after the same had been declined by the IIIrd Additional Sessions Judge, Karachi (South) by order dated 11-08-2023.

2. The offence alleged against the accused is one under section 489-F PPC for dishonestly issuing a cheque of Rs. 80,00,000/-, which was dishonored on 22-03-2023 for the reason that the bank account of the accused on which the cheque was drawn was found to be closed.

3. Per the Complainant's narrative in the FIR, he had given a sum of Rs. 19,375,000/- to the accused for the purposes of purchasing a bungalow for the Complainant; that when the deal did not materialize, the Complainant demanded that his money be returned, and that is when the accused issued the aforesaid cheque. On the other hand, learned counsel for the accused submits that the parties were in business together for purchasing the aforesaid bungalow; that

a dispute arose between them and over the transaction; and during that time, the Complainant got hold of the accused's cheque book to fill in a cheque signed by the accused.

4. Heard learned counsel, the APG Sindh and perused the record.

5. Though the cheque is dated 10-01-2022, it was presented by the Complainant to his bank on 22-03-2023, after a period of more than two months. Though the cheque was dishonored on 22-03-2022, the FIR was lodged on 29-04-2022, again with a delay of nearly one month. Thus far, the delay in presenting the cheque, and then the delay in lodging the FIR remains un-explained. Therefore, there is more to the case than the narrative in the FIR. Admittedly, the parties had business dealings with each other. In such circumstances, and assuming that the cheque had been issued by the Accused to the Complainant, the dishonest intention behind issuing the cheque if any, has yet to be determined, so also the question whether the cheque was issued before or after the bank account was closed.

4. In the circumstances aforesaid, the case against the accused is one of further enquiry falling within the ambit of sub-section (2) of section 497 CrPC. The offence alleged also does not fall within the prohibitory clause of section 497 CrPC, and thus the grant of bail is the rule and its refusal the exception. For these reasons, the accused namely - Mohsin Abdullah is granted bail in FIR No. 253/2023 subject to furnishing solvent surety in the sum of **Rs. 500,000/- [Rupees Five Hundred Thousand Only]** alongwith P.R. Bond in like amount to the satisfaction of the Nazir of this Court.

Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

JUDGE

SHABAN*