

## **IN THE HIGH COURT OF SINDH AT KARACHI**

### **Criminal Bail Application No.1597 of 2023**

Applicant : Sheeraz Ahmed S/o Muhammad Riaz  
Through Mr. Ghulam Nabi, Advocate

Complainant : Yousuf Akhtar S/o Akhtar Hussain  
None present.

Respondent : The State  
Through Mr. Talib Ali Memon,  
Asstt. Prosecutor General, Sindh.

Date of hearing : 11.08.2023

Date of order : 11.08.2023

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.170/2023 registered under Section 489-F PPC at PS Aram Bagh, after his bail plea has been declined by 1<sup>st</sup> Additional Sessions Judge (Model Criminal Trial Court), Karachi South vide order 18.07.2023.

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

3. Per learned counsel, applicant/accused is innocent and has falsely been implicated in this case; that in fact the applicant/accused has paid the entire amount to the complainant but he used the said cheque by mentioning Rs.18 lacs amount, otherwise prior to this the applicant/accused has given amount so also vehicle bearing No.BG-2316 and other relevant documents, which are available from Page-77 to Page-91 of the file; that the

applicant/accused is regularly attending the Court and he is no more required for further investigation. He lastly prays for confirmation of bail to the applicant/accused.

4. On the other hand, learned APG opposes for confirmation of bail on the ground that the applicant/accused has not denied from the cheque and signature, as such, the cheque belongs to him. In support of his contentions, he has relied upon a case reported as Syed Hasnain Haider vs. The State and another (SCMR 2021 1466).

5. I have heard the learned counsel for the parties and perused the material available on record.

6. The case of the prosecution is that the complainant had given an amount of Rs.18 lacs to the applicant/accused for business purpose; however, when the complainant demanded to return his amount, the applicant gave him a cheque bearing No.13255625 amounting to Rs.18 lacs, which became bounce on its presentation. It appears that the applicant/accused despite knowing that he had no sufficient amount in his account has given the said cheque as such, he has also committed offence of fraud and cheating. Further, nowhere applicant/accused has denied issuance of cheque and the signature and failed to explain as to how his cheque went into the possession of complainant. So far as the case law relied by the learned APG (cited supra) wherein the Hon'ble Supreme Court of Pakistan has dismissed the bail of the accused on the ground that issuance of cheque and signature was not denied by him, the same is very much applicable in this case. 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.

7. 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.

8. 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 21.07.2023 is hereby recalled.

9. 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