

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1646 of 2023

Applicant : Adnan Idrees S/o Muhammad Idrees
through Mr. Shakeel Ashique Channa,
Ishaque,
Advocate

Complainant : Muhammad Asim Qureshi
Through Mr. Kamran Asghar, Advocate

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

Date of hearing : 24.08.2023

Date of order : 24.08.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.55/2023 for the offence under Section 489-F PPC registered at PS Artillery Maidan, after his bail plea has been declined by the learned 1st Additional Sessions Judge/MCTC, Karachi South vide order dated 14.07.2023.

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. Learned counsel for the applicant/accused has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that in fact, the complainant was working in the shop of applicant, as such, he had stolen the cheque of the applicant, otherwise no amount/dues is lying with the applicant for which he issued the said cheque. He lastly prays for confirmation of bail.

4. On the other hand, Mr. Kamran Asghar, Advocate files Vakalatnama on behalf of the complainant and vehemently opposes for confirmation of bail. Learned Addl. also opposes for grant of bail.

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

6. The case of the prosecution is that the complainant and the applicant were working together in hardware and sanitary shop. The applicant sold out different items from the shop worth Rs.45 lacs to the different people and received cash amounting to Rs.45 lacs from them. When the complainant demanded from him, he issued a cheque to him bearing No.1836216178, which became bounce at the time of presentation. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, when the cheque was dishonoured due to insufficient amount in the account and the applicant knew that no amount is lying in his account even then he issued the cheque to the complainant. However, the applicant 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. 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. 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 26.07.2023 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