

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

Cr. Bail Application No. S-935 of 2024

Applicant : Abdul Raheem s/o. Majeedullah,
through Mr. Zohaib Hassan Pahore,
Advocate

Respondent : The State, through Ms. Sana Memon,
Assistant Prosecutor, Sindh

Complainant : Ali Jan s/o. Muhammad Samiullah
(nemo)

Date of hearing : 23.09.2024

Date of order : 23.09.2024

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/accused Abdul Raheem s/o Majeedullah has sought pre-arrest bail in Crime No.206/2024, registered at P.S. B- Section, Latifabad, Hyderabad under Section 489-F, P.P.C. His earlier application for the same relief bearing No.2254/2024 was dismissed by the learned VIIIth Additional Sessions Judge, Hyderabad vide order, dated 16.08.2024. The applicant was admitted to interim pre-arrest bail by this Court vide order dated 30.08.2024, now the matter is fixed for confirmation of the same or otherwise.

2. As per F.L.R., the allegation against the applicant is that he, for giving complainant's share in the inherited property, issued five cheques in favour of complainant amounting to Rs.50,000/00, each and out of which, three cheques were encashed; however, two of them were dishonored on being presented in bank for encashment due to insufficient funds.

3. Having been heard learned counsel for the applicant as well as A.P.G. and perusing the material available on record, it appears that the applicant issued five cheques to the complainant in lieu of his share in the inherited property, out of which three were encashed and two of them were dishonored due to insufficient funds. Learned counsel for the applicant contends that the applicant was ready to pay the said amount to complainant in cash and he informed him accordingly but with malafide intention, he got the cheques dishonored. The notice was issued to complainant but the same has received un-served with the report of S.H.O PS B-Section Latifabad that the complainant has shifted from given address.

4. It may be observed that the offence under section 489-F, P.P.C. is though non-bailable but does not fall within the prohibitory clause of section 497, Cr.P.C. Prima facie, section 489-F, P.P.C. is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. It is only to determine the guilt of a criminal act and award of a sentence, fine or both as provided under section 489-F, P.P.C. The law is very liberal especially when it is salutary principle of law that in the offences which do not fall within prohibitory clause, the grant of bail is a rule while its refusal is merely an exception. Accordingly, the interim bail already granted to the applicant vide order dated 30.08.2024 is confirmed on same terms and conditions.

5. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of applicants on merits and if the applicant in any manner tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

Cri. Bail application stands disposed of.

JUDGE