

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-1376 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

20.01.2025

Applicant is called absent.
Mr. Imtiaz Ali Channa, Advocate for applicant.
Mr. Peer Muhammad Siddiqui, Advocate for complainant.
Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.

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O R D E R

AMJAD ALI SAHITO, J:- Through this bail application, the applicant sought confirmation of his pre-arrest bail in Crime No.169 of 2024, for offence under section 489-F, P.P.C, registered at P.S. B-Section Dadu. Earlier bail plea of applicant was declined by the learned Additional Sessions Judge-IV, Dadu vide impugned order dated 28.11.2024.

2. The facts of the case are already mentioned in the F.I.R and memo of bail application, hence need not to reproduce the same hereunder.

3. Applicant is not in attendance. However, Mr. Imtiaz Ali Channa, appearing for applicant argued the matter by contending that FIR is delayed about seven months without plausible explanation; that no description of buffaloes has been given by the complainant in his FIR to support his claim of selling the same to accused; that cheques alleged to have been issued by the accused to complainant against liability of purchasing buffaloes are doubtful as they not in series; that offence does not fall within the prohibitory clause of section 497 Cr.P.C. Lastly, prayed for conformation of bail.

4. On the other hand, counsel for complainant as well as learned APG vehemently opposed the confirmation of bail.

5. Heard and record perused.

6. From perusal of record it appears that instant bail application was presented on 20th December 2024 wherein interim pre-arrest bail was granted to the applicant and then matter was taken-up on 06.01.2025. It appears that complainant sold out six buffaloes to accused against sale consideration of Rs.36,00,000/-, in lieu thereof, applicant / accused issued him subject cheques same on presentation before the Bank became dishonoured due to insufficient amount, hence the ingredients of section 489-F P.P.C are fully applicable in this case. The counsel for applicant / accused has not denied from issuance of subject cheques and from his signature thereon. Further from issuance of cheques it is specifically established that applicant knew that no amount is lying in his account even then he issued cheques which means that he had no intention to pay remaining amount to the complainant thereby he has committed and cheating with the complainant. At bail

stage only tentative assessment is to be made and nothing has been brought on record to show any ill-will or malafide on the part of the complainant which is requirement for grant of pre-arrest bail. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner 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 investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”

7. In view of above discussions, the applicant/accused failed to make out good case for confirmation of his bail. Consequently, the bail application is **dismissed** and interim pre-arrest bail earlier granted to the applicant/accused vide order dated 20.12.2024 is hereby **re-called**.

9. Needless to mention here that the observations made hereinabove are tentative in nature and same would not prejudice the case of either party at trial.

JUDGE

Muhammad Danish*