

IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 2194 of 2023

Applicant : Shujat Ahmed Burney
through Mr.Mir Moula Bux Tunio, Advocate

Respondent : The State
through Mr. Saleem Akhtar Buriro, Addl.P.G.

Date of hearing : 26th September, 2024

Date of Order : 1st October, 2024

ORDER

Omar Sial, J: Shujat Ahmed Burney has sought pre-arrest bail in crime number 618 of 2023 registered under section 489-F P.P.C. at the Aziz Bhatti police station. His earlier bail plea was made before the learned 13th Additional Sessions Judge, Karachi East, but the same was dismissed on 20.09.2023.

2. The case against Burney is that, in a certain real estate dealing between him and Rehan Tahir (the case complainant), he issued a cheque for Rs. 4,100,000 on 28.06.2022, which bounced upon presentation.

3. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General. The complainant and his counsel preferred to remain absent. My observations and findings are as follows.

4. There appears to be no cogent evidence at the moment that could categorically reflect that the cheque in question was issued for the satisfaction of a loan or the fulfillment of an obligation. The same is an important ingredient for committing an offence under section 489-F Cr.P.C.

5. An offence under section 489-F Cr.P.C. carries a potential sentence of up to three years. Although not bailable, the offence falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping the principles enunciated in Tariq Bashir and five others vs The State (PLD 1995 SC 34) in mind, I do not find any extraordinary reasons to deny the applicant bail.

6. Upon a tentative assessment, the complainant and the applicant had an ongoing business relationship in which some convoluted transactions occurred. Rehan has yet to prove that he was even entitled to buy the plot (as it is said to be a Lyari Resettlement plot) and the terms and conditions under which the sale occurred. The element of dishonesty required by section 489-F P.P.C will also require evidence at trial. The learned Additional Prosecutor General has explained comprehensively to me the transaction from which the bounced cheque originates. In the background of the events that preceded the transaction, I cannot exclude malafide conclusively at this preliminary stage.

7. Given the above, the interim pre-arrest bail granted earlier to the applicant is confirmed on the same terms and conditions.

JUDGE