

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 3032 of 2024

Date *Order with Signature of Judge*

For hearing of Bail Application

17.02.2025

Mr. Javed Azeem, Advocate along with Applicant (on bail).
Mr. Neel Parkash, Assistant Prosecutor General, Sindh.
Mr. Kamran Ali Kashmiri, Advocate along with Complainant.

ORDER

ALI HAIDER 'ADA'-J;- Through this bail application, applicant Shah Faisal Khan seeks pre-arrest bail in Crime No.411 of 2024 for the offence punishable under Section 489-F PPC registered with P.S Site-A, Karachi. The applicant preferred his anticipatory bail before the Court of Sessions wherefrom it was assigned to Addl. Sessions Judge-XII, Karachi (West), who after hearing the parties, has turned down his request through order dated 20.12.2024; hence, instant bail application has been maintained.

2. The FIR was registered on 12.12.2024 while the incident, as mentioned in the FIR, was taken place on 26.08.2024.

3. The brief facts of the prosecution's case are that the complainant had a business relationship with the applicant/accused and in this regard four cheques i.e. 00000064 and 00000065 each amounting to Rs.250,000/-, 00000066 and 00000067, each amounting to Rs.371,720/-, were issued to the complainant and later on, the same were dishonoured on the ground of insufficient funds. As after getting the order from the learned Justice of Peace, instant FIR was registered.

4. Learned counsel for the applicant submits that the applicant had no business relationship with the complainant and his cheques were actually misused by the complainant as the complainant is his subordinate / servant and he used to pay him a salary of Rs.35,000/-. Learned counsel

further submits that applicant has a business of Zari goods/embroidery work with one Salman Haroon and runs his own factory/karkhana, as such cheques were handed over to the complainant to give the same to Salman Haroon but the complainant with malafide intentions and in order to get ulterior motives, presented the cheques before the Bank, which were dishonoured on the same day. He, therefore, prays that bail granted to the applicant may be confirmed.

5. On the other hand, learned counsel for the complainant submits that actually there is a business relationship between the parties and the complainant has a business of Zari goods/embroidery work instead of the applicant. Learned counsel further submits that before the investigation agency, the applicant had a stance that he has a business relationship with one Salman Haroon and said Salman Haroon was also examined before the learned trial Court where he denied such relationship with the applicant. Further, the learned counsel invites attention of this Court towards interim order dated 01.01.2025 wherein the applicant took a plea that his cheques were stolen and were misused and now the applicant improved his version; however, today, his plea is contra in nature with the previous defense plea. In support of his contention, learned counsel places reliance upon the case of *AZHAR PERVAIZ BUKHARI Versus The STATE and another* (2024 SCMR 1719).

6. Learned Assistant P.G, Sindh supports the arguments of learned counsel for the complainant and opposed the bail application. He; however, submits that the FIR was registered without malafide intentions, as such ingredient is missing and for the grant of concession of pre-arrest bail, malafide is the main consideration. Learned Assistant P.G further submits that cheques were presented in the Months of March and April, 2024 and no doubt, the memorandum was issued on 26.08.2024; however, as per general practice of the society to resolve the matter between the parties by arbitration instead to approach the concerned police station, delay in registration of the FIR is not beneficial to the applicant/accused.

7. Heard arguments and perused the material available on record.

8. The record reflects that the applicant/accused made different pleas during the course of the arguments and proceedings. It was noted that, while the applicant showed his business, he must also provide his profile before the Federal Board of Revenue (FBR). During the arguments, when the Court inquired about the applicant's income tax returns, the applicant replied that he was not registered with the FBR. Additionally, the applicant claimed that the complainant was his subordinate and that they had a business relationship. However, Salman Haroon denied any such transaction with the applicant or the complainant. The stance taken by the applicant before this Court that his cheques were stolen, was also noted; however, no report of the theft was lodged by him and even if such FIR was lodged, then such defense is to be proved at the time of trial but such aspect is missing from the applicant's case.

9. The concession of pre-arrest bail is discretionary in nature, and such discretion must be exercised judiciously based on the material available on record. According to the contents of the learned counsel's arguments, the case is not established for the grant of pre-arrest bail. Therefore, instant Criminal Bail Application is hereby dismissed, and the interim order dated 01.01.2025 is hereby recalled.

JUDGE

Zulfiqar/P.A