

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3033 of 2024

Applicant : S. Danish Habibullah S/o Khawaja
Habibullah through Mr. Rehan Dino
Mahesar, Advocate

Respondent : For State:
through Ms. Rahat Ahsan, Addl. P.G.

For complainant:
through M/s. Ahmed Ali Ghumro & Abdul
Samee, Advocates

Date of hearing : 18.03.2025

Date of order : 18.03.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.746/2024 for the offence under Section 489-F PPC registered at PS Gadap City, after his bail plea has been declined by the learned Addl. Sessions Judge-VIII, Malir Karachi vide order dated 24.12.2024.

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. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case by the complainant with malafide intention; that in fact the applicant has no outstanding dues against the complainant; that the applicant was kidnapped and subsequently by way of force, police had obtained the cheque from him and subsequently, he was involved in this case, otherwise he has not committed any offence. Lastly, he prays for confirmation of bail.

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

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that complainant reported that he is doing his own business. He invested an amount of Rs.27,200,000/- in the year 2021 with the present applicant, who is the member of HSP Marketing & Developers through an agreement with 10% profit; however, in the year 2023 when the applicant failed to pay his principal amount so also profit then he demanded his amount back, as such, the applicant issued a cheque bearing No.61948752 amounting to Rs.70,000,000/- which he deposited in his account and the same was became dishonoured due to 'dormant account'. Hence, the ingredients of Section 489-F PPC are very much applicable in this case. Further, the applicant knowingly issued the said cheque that his account is dormant; as such, he has also committed offence of cheating and fraud with the complainant. The applicant has also not denied issuance of cheque. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicants/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, learned counsel for the applicant has failed to make out a case for grant of bail in subsection 2 of Section 497 Cr.P.C. Resultantly, the instant bail application is **dismissed**. The interim pre-arrest bail granted to the applicant/accused vide order dated 30.12.2024 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