

**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Criminal Miscellaneous No. 685-B of 2019**

**Usman Asghar**

**VS**

**The State, etc**

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
<b>06.</b>	<b>02.12.2019.</b>	<b>Mr. Afzaal Qadeer Satti, Advocate for petitioner. Mr. Naeem Ahmad Awan, State Counsel. Mr. Qaiser Imam Ch., Advocate for respondent No.2/complainant. Mr. Azhar Shah, DSP (Legal). Rasheed, ASI.</b>

The petitioner namely Usman Asghar seeks bail after arrest in case FIR No.150/19, dated 02.05.2019, for offence under Section 408 PPC, Police Station Kohsar, Islamabad.

2. Respondent No. 2 filed a complaint wherein it was alleged that the petitioner was an employee of the KENAD Private Limited company and over a period of time got various cheques signed from the Chief Executive Officer/Complainant Authority which sum was never paid to the beneficiary but was misappropriated. It was also alleged that in sum of Rs. 20 million partial recovery has been effected.

3. The petitioner applied bail for after arrest before learned Judicial Magistrate-West, Islamabad, which was dismissed vide Order dated 06.09.2019. The bail petition before Sessions Judge, Islamabad, was dismissed by the learned Additional Sessions Judge-V, West-Islamabad, vide Order dated 27.09.2019.

4. Learned counsel for the petitioner, *inter alia*, contended that the petitioner was an employee in the administration and could not have misappropriated the funds. It was also contended that cheques have been signed voluntarily by the CEO; that the matter was never pointed out by auditor of the company; that the alleged occurrence took place in 2017, whereas the FIR has been lodged in 2019.

5. Learned State Counsel alongwith the learned counsel for respondent No.2/complainant, *inter alia*, contended that after the fraud was detected, an agreement was executed and partial recovery of Rs. 6.3 million has been made. It was further contended that the cheques tendered by the petitioner towards payment were dishonoured; that

during the course of investigation the petitioner found guilty.

6. Arguments advanced by learned counsel for the parties have been heard and documents placed on record examined with their able assistance.

7. The petitioner is implicated in an offence under Section 408 PPC which entails the maximum punishment of seven (07) years imprisonment and fine. The said offence does not fall within the prohibitory clause provided in Section 497 Cr.P.C. and in such like cases grant of bail is a rule and refusal is an exception. Reliance was placed on case reported as *Tariq Bashir and 05 others Vs. The State (PLD 1995 SC 34)*. The case of the petitioner does not fall within the exception enumerated in the said judgement. The investigation stands concluded and the petitioner is not required for the same. Though the FIR was lodged in 2019, however, the alleged occurrence is of 2017; reliance was placed on the agreement between the petitioner and complainant, however, the same is of no avail as it is trite law that an offence is

to be reported promptly. The delay in reporting of the offence makes case against the petitioner one of further inquiry.

8. In view of the above, the instant petition is allowed and the petitioner is enlarged on bail after arrest subject to furnishing bail bonds in sum of Rs.2,00,000/- with one (1) surety in the like amount to the satisfaction of learned trial Court.

**(AAMER FAROOQ)**  
**JUDGE**

M. Junaid Usman