

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

**CRL.MISC. NO.807 /2019**

**Waseem Ahmad Vs The State etc**

<b>Serial No. of order/ proceeding</b>	<b>Date of order/ proceedings</b>	<b>Order with signatures of judge, and that of parties or counsel, where necessary.</b>
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04	14.01.2020	Mr. Imran Feroze, Advocate for petitioner. Mr. Zahid Asif Chaudhary, Advocate for the complainant. Mr. Zohaib Hassan Gondal, State counsel with Bilal Ahmad, SI P.S. Lohi Bher, Islamabad.
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**GHULAM AZAM QAMBRANI, J**

The petitioner [Waseem Ahmad] seeks post arrest bail in case FIR No.82, dated 03.03.2018, under section 489-F, PPC, registered at Police Station Lohi Bher, Islamabad.

2. Brief facts of the case are that the complainant [Munir Ahmad] lodged a complainant against the petitioner stating therein that he gave him a cheque No.23634294 dated 17.06.2017 amounting to Rs.90,00,000/- of JS Bank, in connection with business deal, which on presentation was dishonoured.

3. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the instant case; that the petitioner issued the said cheque as a guarantee, as such, no criminal proceedings can be initiated against a guarantee cheque; that maximum punishment provided for the offence under Section 489-F, PPC, is three years which does not fall within the ambit of prohibitory clause; that the case of petitioner is one of further inquiry and probe.

4. On the other hand, learned counsel for the complainant assisted by learned State counsel vehemently opposed the grant of bail to the petitioner contending that he is a habitual offender; that ten more cases of similar nature are pending against him; that he remained absconder after issuance of the cheque, therefore, the petitioner is not entitled for grant of bail.

5. Arguments heard, record perused.

6. Tentative assessment of the record shows that the petitioner allegedly issued a cheque amounting to Rs.90,00,000/- as a guarantor on account of a business deal, which has been dishonoured meaning thereby that there was civil liability of contractual obligation against the petitioner and no cash amount has actually been taken by the petitioner from the complainant. Offence under Section 489-F, PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. as such grant of bail in such like offences is a rule and refusal an exception.

7. So far as contention of the learned counsel for the complainant that the petitioner remained absconder and number of other cases of similar nature are registered against him, is concerned, suffice it to say that refusal of bail on account that the petitioner remained absconder proceeds primarily upon a question of propriety but question of right prevails over question of propriety. As far as the other contention that ten other cases of similar nature are pending against the petitioner is concerned, mere registration of other cases of similar nature against the petitioner does not disentitle him to the grant of bail as the petitioner

has not been convicted in any of the said cases. The petitioner is behind the bar, the investigation is complete. No useful purpose would be served to keep the petitioner behind the bar for an indefinite period.

8. For what has been discussed above, the case of petitioner, *prima facie*, becomes that of further inquiry covered by subsection (2) of section 497 Cr.P.C. This petition is allowed and petitioner is admitted to post arrest bail subject to furnishing bail bonds in the sum of Rs.90,00,000/- (ninety lac) with two sureties of the amount of Rs.45,00,000/-each, to the satisfaction of learned Trial Court.

9. The observations made above are tentative in nature and are strictly confined to the decision of this bail petition only.

~~(GHULAM AZAM QAMBRANI)~~  
JUDGE

Imtiaz