

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 164/B/2020.

Ch. Muhammad Najeeb

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.03.2020.	Mr. Tauqeer Hafeez Abbasi, Advocate for petitioner. Mr. Zohaib Hassan Gondal, State Counsel. Raja Fakhar Ejaz, Advocate for complainant/respondent No.2. Sultan Mehmood, S.I P.S. Koral, Islamabad.

Through this CrI. Misc., petitioner has prayed for post-arrest bail in case FIR No.339, dated 01.08.2019, U/S 489-F PPC, P.S. Koral, Islamabad.

2. Brief facts referred in the instant criminal case are that petitioner received an amount Rs.130,00,000/- in order to invest the same in his business and later on petitioner issued two post dated cheques of Rs.70,00,000/- and Rs.60,00,000/-, which dishonored on presentation before the concerned bank. Hence, instant FIR has been lodged.

3. Learned counsel for the petitioner contends that petitioner has not issued any post dated cheque in the name of complainant rather petitioner is dealing in the business with one Ch. Muhammad Taj through agreement and issued different post dated cheques to him as petitioner is dealing with money exchange business and his cheques have been misused by the said Ch. Muhammad Taj, who has handed over the same to some other persons

having no relation whatsoever with the petitioner; that challan has been submitted in the Court, even one of the prosecution witness has recorded his statement but due to non-cooperative attitude of complainant's side, trial has not yet been concluded and petitioner is behind the bars for the last five and half months.

4. Conversely, learned State Counsel as well as learned counsel for complainant/respondent No.2 contend that petitioner has issued post date cheques against the investment in the business but later on he misappropriated the huge amount and even he has defrauded other innocent persons and five different criminal cases of similar nature have been registered against the petitioner, therefore, he is not entitled for concession of post-arrest bail.

5. Arguments heard, record perused.

6. The tentative assessment of record reveals that petitioner has been nominated as accused in case FIR No.339, dated 01.08.2019, U/S 489-F PPC, P.S. Koral, Islamabad with the allegations that he has received Rs.130,00,000/- on account of investment in his business in Aabpara Market and issued two post dated cheques which were dishonoured on presentation by the complainant. Although petitioner has acknowledged the issuance of two post dated cheques but not in the name of complainant and denied his relationship with the complainant, which could only be determined during the course of trial as it requires appreciation of evidence. The petitioner is behind the bars since 23.09.2019 and one prosecution witness has already recorded his statement

but there is no denial on the part of complainant that he has invested the amount in the business of petitioner against whom he has received two post dated cheques which are subject matter of this case, such situation if considered in the light of offence with which petitioner has been charged, it discloses that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C. and even otherwise, it is a civil dispute.

7. Keeping in view the above position and the recent pandemic of corona virus, it seems that trial of the petitioner would not be concluded in near future as Courts are not working on regular basis under the order of High Court and only urgent cases are taken up before the different lower Courts. As such petitioner is behind the bars for more than five months and the offence with which petitioner has been charged provides maximum sentence for 03 years which does not fall within the prohibitory clause of Section 497 Cr.P.C. and as such the grant of bail in such type of cases is rule and refusal is an exception. Reliance is placed upon PLD 1995 SC 34 (Tariq Bashir and 5 others Vs. The State), PLD 2017 SC 733 (Muhammad Tanveer Vs. The State).

8. In view of above, instant petition is allowed and the petitioner is admitted to post arrest bail subject to his furnishing of bail bonds in the sum of Rs.2,00,000/- (Rupees Two Lac only) with one surety in the like amount to the satisfaction of learned trial Court.

(MOHSIN AKHTAR KAYANI)
JUDGE