

## ORDER SHEET.

### IN THE ISLAMABAD HIGH COURT, ISLAMABAD. JUDICIAL DEPARTMENT.

**Criminal Misc. No. 714/B/2019.**

Imdaad Hussain

*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.
	17.12.2019.	Mr. M. Imran Abbasi, Advocate alongwith petitioner. Barrister Ayesha Siddique Khan, State Counsel. Mian Ahmed Khan, Advocate for complainant/ respondent No.2. Zulfiqar Ali, ASI. P.S. Bhara Kahu, Islamabad.

Through this Crl. Misc., petitioner has prayed for pre-arrest bail in case FIR No.105, dated 19.03.2019, U/S 489-F PPC, P.S. Bhara Kahu, Islamabad.

2. Brief facts of the instant case referred in FIR which was lodged by complainant/respondent No.2 are that, in order to receive Rs.25,00,000/- against his vehicle from petitioner Imdaad Hussain, he contacted petitioner, who on 31.12.2018 issued a post dated cheque No.1715179115 amounting to Rs.25,00,000/- and transmitted the same through his servant Yasin to the respondent/ complainant, however, the said cheque was without date, therefore, complainant alongwith other witnesses as well as servant of petitioner went to Peshawar where petitioner incorporated the date as 08.01.2019 on cheque, which was deposited in Bank Al-Habib, Bhara Kahu Branch and the same was dishonored due to insufficient funds. Hence, instant FIR.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case; that there is civil dispute qua the exchange of vehicles between the parties through an agreement and as such petitioner is not directly liable to pay the amount claimed by the complainant; that cheque of petitioner was stolen, which was misused by respondent.

4. Conversely, learned State Counsel as well as learned counsel for complainant/respondent No.2 contend that petitioner entered into an agreement with complainant regarding exchange and sale of vehicles and the vehicle given by the petitioner was found defective in the registration record and as such the petitioner agreed to pay the amount through cheque but the said cheque was dishonoured on its presentation; that petitioner is not entitled for concession of pre-arrest bail as he has acknowledged the issuance of cheque in question.

5. Arguments heard, record perused.

6. The tentative assessment of record reveals that petitioner is seeking pre-arrest bail in case FIR No.105, dated 19.03.2019, U/S 489-F PPC, P.S. Bhara Kahu, Islamabad, mainly on the ground that he has falsely been implicated in this case and the entire dispute qua the parties is of civil nature, hence he is entitled for concession of pre-arrest bail.

7. I have gone through the entire record with the

able assistance of learned counsel for the parties and observed that parties initially entered into an agreement for exchange of vehicles whereby complainant has paid an additional amount in order to receive the vehicle given by the petitioner, however, due to certain defects in the documents/record, deal could not be materialized and the amount as well as value of vehicle which was to be delivered were calculated as Rs.25,00,000/- and the petitioner issued a post dated cheque to the complainant which was dishonored on its presentation.

8. I have confronted the learned counsel for the petitioner as well as petitioner regarding the status of cheque in question, whereby petitioner states that his cheque was misused and as such he has not issued the same and denied its execution. The ground raised by the petitioner at this stage could not be materialized as it is yet to be determined as to whether cheque in question was stolen or misappropriated by the respondent/complainant especially when petitioner has failed to submit any of his complaint regarding theft of the said cheque. The petitioner is *prima-facie* linked with the alleged crime of dishonestly issuing cheque and as such he is not entitled for concession of pre-arrest bail. The petitioner has failed to raise any ground of further inquiry or malafide on the part of complainant which are key ingredients for grant of pre-arrest bail.

9. In view of above, instant pre-arrest bail application is hereby dismissed and ad-interim pre-

arrest bail granted to the petitioner vide order dated  
11.11.2019 is hereby recalled.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Zahid