

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

Crl.Misc.No.463-B/2019

Umair Khan

**Versus**

The State and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>29.07.2019</b>	<b>Chaudhry Tanveer Akhtar, Advocate for the petitioner Mr. Sadaqat Ali Jahangir, learned State Counsel with Ch. Naeem Tahir, A.S.I. Qazi Rehan Shabbir, Advocate for the complainant/respondent No.2</b>

Through the instant petition, the petitioner, Umair Khan seeks post-arrest bail in case F.I.R. No.424, dated 27.09.2018, offences under Sections 420, 468 and 471 P.P.C. registered at Police Station Kohsar, Islamabad.

2. Earlier the petitioner's similar petitions seeking post-arrest bail were dismissed vide orders dated 16.04.2019 and 01.06.2019 passed by the learned Judicial Magistrate Section-30 and Additional Sessions Judge, Islamabad, respectively.

3. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the F.I.R. in question with *malafide* intentions and ulterior motives; that the petitioner has nothing to do with the commission of alleged crime as the main culprit is Ali Raza who telephonically called the complainant, Adeela Imran, to come Islamabad and give an amount of Rs.4,71,784/- through cheque in advance for the import of a Suzuki car and harvester machine; that the petitioner was an employee of accused Ali Raza and on his direction, he encashed the cheques in question and deposited the above-said amount in the account of Ali Raza; that the petitioner has already cooperated with the investigating officer and provided him the address

of the said Ali Raza; that the offences alleged to have been committed by the petitioner do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C.; and that the petitioner is behind bars for quite long time and is no more required for further investigation. Learned counsel has prayed for the petition to be allowed and for the petitioner to be released on bail.

4. On the other hand, learned counsel for the complainant, assisted by the learned State Counsel, vehemently opposed the bail petition by stating that the petitioner is nominated in the F.I.R. with specific role of committing fraud with the complainant and depriving her of an amount of Rs.4,71,784/-; that according to the statement of the manager of the guest house, it was the petitioner who booked the room in the guest house in the name of Geneva Car Leasing Private Limited; that the petitioner had received the cheques in question from the complainant and got the same encashed from the bank as revealed through the CCTV footage; that the said Geneva Car Leasing Private Limited Company was not registered with the SECP; that the amount received from the complainant under the pretext of booking a car and a harvester machine from abroad had been equally divided by the petitioner and co-accused, Ali Raza; and that both the accused in connivance with each other committed fraud with the complainant. Learned counsel prayed for the bail petition to be dismissed.

5. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

6. Brief facts as stated in the F.I.R. are that the complainant was the resident of House No.E/70 College Chowk Fareed Town, Sahiwal. It was

reported in the F.I.R. that the complainant while searching on OLX had read the publication of a private limited company namely, Geneva Car Leasing, which provides car leasing financial assistance and contact No.03004986643 was provided on its website to avail the said leasing facility. On reading the said publication, the complainant called on the said mobile number and showed interest in purchasing a Suzuki Wagon-R car and a harvester machine to a person, namely, Hussain *alias* Ali Raza, who also tried to convince her with regard to the purchase of the same. In the report, it was also provided that the said accused Husaain got in touch with the complainant and offered her to come Islamabad. Pursuant to the said offer, when the complainant along with her husband reached at *Daewoo* bus stand at Islamabad on 25.06.2018, a person namely, Umair came there and brought them to Amyls Garden House No.55, Main School Road, Sector F-6/2, Islamabad in Room No.108 for stay. On reaching the said guest house, they asked the accused Umair about the car and a harvester machine. Upon this, accused Umair gave them assurance with regard to purchasing the car etc, and as a result, the complainant issued/gave two cheques valuing Rs.4,71,784/- to him as advanced money for the import of the said car and harvester machine. The said cheques were encashed on their presentation before the bank concerned by the accused/petitioner. After receiving/encashment of the above-said cheques when the complainant asked about a car, the said accused Umair left the spot and later he did not return. Consequently, the F.I.R. in question was lodged against the accused persons, namely, Umair and Hussain, who in connivance with each other,

cheated the complainant and deprived her of the above-said amount.

7. Apparently, it was the petitioner who received the complainant and her husband from the *Daewoo* bus stand and brought them to a guest house called Amyls Garden for their stay. The room was booked by the petitioner in the said guest house with fake company name, i.e. Geneva Car Leasing Private Limited. Furthermore, the record shows the petitioner's involvement in the encashment of the cheques in question as advance money from the complainant on the pretext of booking a car and a harvester machine from abroad. The recovery memo appended with the record shows that CCTV footage had been obtained from the Operational Manager Bank Al-falah Main Branch F-6 Nazim ud Din Road, Islamabad, which shows the petitioner's presence in the said Bank on 25.09.2018 and the cheques in question had been encashed by him. Booking of a room with fake company name in the above-said guest house for stay of the complainant and her family, admission with regard to receiving the cheques in question from the complainant under the garb of advance money for booking of a car and a harvester machine, encashment of the cheques in question from the concerned bank, *prima-facie*, connects the petitioner with the commission of alleged crime. The record also shows that the petitioner had dealt with the complainant and her husband on the matter regarding purchasing of a car and a harvester machine. Given the fact that the cheques in question had been encashed by the petitioner, he cannot claim to have no knowledge of the transactions. Even otherwise, the record shows the petitioner's connivance with the co-accused, Ali

Raza *alias* Hussain in cheating the complainant and depriving her of a huge amount.

8. In view of the above tentative assessment, the petitioner has failed to make out a case of further inquiry. Consequently, the instant bail is dismissed. Since the co-accused Ali Raza had gone into hiding since 27.09.2018 and had been declared absconder, therefore, to the extent of the present petitioner, the learned Trial Court is directed to conclude the trial at the earliest.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Qamar Khan\*