

Form No: HCJD/C-121.

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

Criminal Miscellaneous No.705/B of 2020

Usman Habib Khan
VS
The State & another

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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01.06.2020.	Syed Khawar Ameer Bukhari, Advocate for the petitioner. Raja Shujaat Ali Abbasi, Advocate for respondent No.2/complainant. Mr. Toufeeque-ul-Irfan Asif, learned State Counsel. G. Abbas Khan, ASI.
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The petitioner, Usman Habib Khan
S/o Sardar Muhammad Habib Khan, seeks bail
after arrest in case F.I.R. No.360, dated
02.11.2019, under Section 489-F P.P.C., Police
Station Shalimar, Islamabad.

2. The case of the prosecution against
the petitioner is that on the complaint of
respondent No.2, the above-mentioned F.I.R.
was registered, wherein it was alleged that the
complainant had made payment to the
petitioner for procurement of tickets for air
travel, however, the needful was not done by
the petitioner and on demand of the
complainant, he tendered a cheque of
Rs.15,00,000/-, which when was presented for
payment was dishonoured.

3. The petitioner applied for bail after
arrest, which was dismissed by the Judicial
Magistrate, Islamabad vide order dated

23.04.2020. The application before the Sessions Judge was also dismissed, vide order dated 07.05.2020.

4. Learned counsel for the petitioner, *inter-alia*, contended that the offence, in question, does not attract the prohibitory clause; that in the similar connected cases, the petitioner has been granted concession of bail; that the investigation stands concluded and the petitioner is not required for further investigation; that the case involves further inquiry.

5. Learned State Counsel alongwith the counsel for the complainant, *inter-alia*, contended that in the investigation the petitioner has been found guilty; that there are six (06) other FIRs of similar nature pending against the petitioner; that report under Section 173 Cr.P.C has been filed.

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

7. The petitioner has been implicated with an offence under Section 489-F P.P.C., which does not attract the prohibitory clause as provided under Section 497 Cr.P.C and in such like cases grant of bail is a rule and refusal is an exception. Reliance is placed on

case reported as "*Tariq Bashir and 5 others Vs. The State*" (**PLD 1995 SC 34**). It was stated on behalf of the learned State Counsel that there are six (06) other FIRs of similar nature, hence it is likely that the petitioner if released on bail might repeat offence. In light of the judgment of the Hon'ble Supreme Court of Pakistan reported as "*Qurban Ali Vs. The State and others.*" (**2017 SCMR 279**), mere pendency of cases of similar nature is inconsequential for grant of bail unless there is a conviction in the same. The investigation stands concluded and the petitioner is not required for the same, hence his continued incarceration shall not serve any purpose.

8. For what has been stated above, the instant application is **allowed** and the petitioner is admitted to bail after arrest in the abovementioned FIR subject to furnishing bail bonds in the sum of Rs.1,00,000/- (Rupees One Hundred Thousand Only) with one (01) surety in the like amount to the satisfaction of the learned Trial Court. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the learned Trial Court at the time of trial.

(AAMER FAROOQ)
JUDGE