

HCJD/C-121  
**ORDER SHEET**

**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**CRL. MISC. NO. 781-B of 2020.**

**Naser Nomi.**  
*VERSUS*  
**The State, etc.**

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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31.08.2020. Mr Muhammad Bilal Mughal, Advocate alongwith the petitioner.  
Mr Abid Majeed, Advocate for the complainant.  
Mr Rabi bin Tariq, State Counsel.  
Mr Ghulam Jillani, SI with record.

The petitioner Naser Nomi son of Ammounial has sought pre-arrest bail in case, F.I.R. No. 90, dated 06.04.2020, registered under section 489-F of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Secretariat, Islamabad.

2. Brief facts as narrated in the FIR are that the petitioner had business relationship with the complainant and pursuant thereto the former had given a cheque. On presentation of the cheque to the concerned Bank, its encashment was refused due to insufficient funds. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter is innocent and has not committed the alleged offence; the petitioner has been falsely involved in the instant case with malafide intention and ulterior motives; the petitioner has no criminal record; story as narrated in the FIR is false, frivolous and concocted; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; offence is not attracted against the petitioner; offence does not

come within the ambit of prohibitory clause of section 497 of Cr.P.C.; there is no evidence against the petitioner; no incriminating material was affected from the petitioner; the instant case has been registered against the petitioner with the connivance of police; the petitioner has been involved in the instant case merely to humiliate and harass him; the petitioner is ready to join investigations; ingredients of section 489-F of PPC are not fulfilled; the case against the petitioner is that of further probe. The learned counsel has prayed for confirmation of pre-arrest bail already extended to the petitioner vide order, dated 19.06.2020.

4. The learned State Counsel assisted by the learned counsel for the complainant appeared alongwith Ghulam Jillani, SI. They have opposed the confirmation of pre-arrest bail. It has been argued that; the offence is cognizable in nature; the petitioner did not appear before the learned Additional Sessions Judge, Islamabad at the time of announcement of his pre-arrest bail petition; the petitioner is nominated in the FIR with specific role; no malafide has been pointed out by the petitioner against the complainant, so as to make out a case for the grant of pre-arrest bail; hence prayed for dismissal of the pre-arrest bail.

5. The learned counsels for the parties have been heard and record perused with their able assistance.

6. Perusal of the record shows that the petitioner is nominated in the FIR and his role is described therein. The issuance of cheque is admitted. The relationship between the parties and the obligation pursuant whereof the cheque was given is also admitted. There is nothing on record to show that the complainant had any enmity or ill will to implicate the petitioner falsely in the instant case or to register a case merely to harass or humiliate him. Likewise no malafide appears on part

of the prosecution. It is settled law that principles governing 'pre-arrest bail' are different from that of 'post-arrest bail'. Deeper appreciation of available record/evidence is not permissible at this stage. Moreover, the ingredients of pre-arrest bail are distinguishable than those of post arrest bail. Nothing has been placed on record to show that the case was an outcome of enmity or that the criminal case has been registered to merely humiliate the petitioner. The petitioner has not been able to make out a case in his favour within the parameters laid down for the purposes of granting pre-arrest bail. This Court is guided by the law laid down by the august Supreme Court in the cases of "*Murad Khan versus Fazal-e-Subhan and another*" [PLD 1983 Supreme Court 82], "*Meeran Bux versus The State and another*" [PLD 1989 Supreme Court 347] and "*Ajmal Khan versus Liaqat Hayat and another*" [PLD 1998 Supreme Court 97].

7. In the circumstances this Court is of the opinion that the petitioner is not entitled to the grant of anticipatory bail at this stage and consequently the ad-interim pre-arrest bail granted in favour of the petitioner is ***recalled / dismissed***.

Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which will obviously not prejudice the proceedings before the learned trial Court.

**(CHIEF JUSTICE)**

*Asad K/\**