

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

Crl.Misc.No.727-B/2020

Tariq Mehmood Mughal

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.
03.	29.5.2020.	Malik Fakhar Ali, Advocate for Petitioner. Mr.Hasnain Haider Thaheem, State Counsel. Zafar Iqbal, ASI PS Koral, Islamabad.

Through this Criminal Miscellaneous application, the Petitioner has prayed for his post arrest bail in Case FIR No.474 dated 03.10.2019 under Section 489-F PPC registered at Police Station Koral, Islamabad.

2. The brief facts referred in the instant FIR are that Petitioner had obtained loan of Rs.500000/- from complainant for the period of two months and gave him a postdated cheque No.A-55-978687 dated 09.7.2019 which was dishonoured on its presentation.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case; that the offence does not fall within the ambit of prohibitory clause of section 497 Cr.P.C.; that the investigation has been completed and Petitioner is no more required by the police for further investigation; that the petitioner is behind the bars since his arrest i.e. 10.2.2020 and his further incarceration in Jail would not serve any useful purpose. It has lastly been contended that trial has not yet been commenced and there is no likelihood of early conclusion of the trial, therefore, Petitioner is entitled for post arrest bail.

4. Learned State counsel alongwith Investigation Officer contends that Petitioner is directly nominated in this case who has given undertaking before the learned trial Court that he will return the amount on which he was granted conditional post arrest bail vide order dated 12.10.2019 by the Court of Judicial Magistrate, Section-30 (East) Islamabad, however he failed to comply with his

commitment and as a result of the same his bail was recalled vide order dated 10.2.2020, therefore, he is not entitled for concession of post arrest bail.

5. Arguments heard. Record perused.

6. Perusal of record reveals that petitioner has been nominated in the above mentioned criminal case on the charge of dishonestly issuance of a cheque amounting to Rs.500,000/- which was dishonored on its presentation. The tentative assessment of record reveals that Petitioner had obtained loan from the complainant and in return of the same he issued a postdated cheque which was dishonored on its presentation. The offence with which Petitioner has been charged does not fall within the prohibitory clause of Section 497 Cr.P.C. Even otherwise it is a civil dispute among the parties on the basis of loan transaction. Record further reflects that Petitioner was granted conditional post arrest bail vide order dated 12.10.2019 but he failed to comply with his commitment and his bail was recalled on 10.2.2020 and since then he is behind the bars. The challan has been submitted in the Court but charge has not yet been framed and there is no likelihood of early conclusion of the trial. In these circumstances the grant of bail in such like offences is a rule and its refusal is an exception. **Reliance is placed on case law titled Tariq Bashir etc Versus The State (PLD 1995 SC 34) and Muhammad Tanveer Vs The State (PLD 2017 SC 733).**

7. In view of above position, Petitioner is entitled for post arrest bail, therefore, instant post arrest bail application is allowed and petitioner is admitted to post arrest bail subject to furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the learned trial Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

M.S.ZAKI