

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Criminal Misc. No.112-B/2020

Saeed Ahmed Saeed Chughtai
Vs.
The State and another

S.No. of order/ proceeding	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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02.03.2020	Mr. Sajjad Aba Khel, Advocate for the petitioner. Mr. Zahid Ayub Rathore, Advocate for respondent No.2. Mr.Zohaib Hassan Gondal, State counsel. Muhammad Khan, Sub-Inspector and Muhammad Arshad SHO
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GHULAM AZAM QAMBRANI, J.:- The petitioner namely, Saeed Ahmed Saeed Chughtai s/o Muhammad Yasin Khan, seeks his post arrest bail in case F.I.R No.41, dated 02.02.2018 registered under Section 489-F of Pakistan Penal Code, 1860 (hereinafter referred to as "***PPC***"), registered at Police Station Tarnol, Islamabad.

2. Briefly stated facts of the prosecution case are that on 02.02.2018, Wazeem Khan S/o Zarkaim Khan, lodged a report to the Police Station Tarnol with the averments that the petitioner purchased Hino vehicle from the complainant and issued two cheques worth of Rs.1,80,000/- (One lac eighty thousand). The complainant on 15.09.2014, presented the cheques for encashment, the same were dishonored.
3. Learned counsel for the petitioner contends

that the petitioner is innocent and has falsely been implicated in this case; that the petitioner is a guarantor and stood surety against another person namely Muhammad Azad Khan against whom F.I.R No.324 under Section 489-F P.P.C has been registered at Police Station Tarnol, Islamabad; that the petitioner is behind the bars since his arrest; that investigation has already been completed and he is no more require to the prosecution for further probe; that further incarceration of the petitioner will not serve any useful purpose; that punishment provided for the offence does not fall within the prohibitory clause of the Section 497 Cr.P.C;

4. Conversely, the learned State counsel assisted by the learned counsel by the complainant contended that the petitioner is habitual offender and so many other F.I.Rs have been registered against him and after grant of bail, he was declared Proclaimed Offender; that the complainant had a dispute with Muhammad Azad Khan regarding Hino vehicle and for remaining amount the petitioner issued different cheques which were dishonored on presentation; and urged for dismissal of the petition.

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

6. Perusal of the record reveals that the petitioner has been arrested in F.I.R No.48/2018 under Section 489-F P.P.C. The learned counsel led to the Court at page No.21 and read over the contents of the "*lqramama*". *Prima facie*, it appears that the petitioner is not responsible for any kind of payment rather he stood guarantor on behalf of one Muhammad Azad Khan. Investigation has been completed and challan has been submitted in the learned trial Court. No useful purpose can be achieved by detaining the petitioner behind the bars. Order passed by learned Judicial Magistrate dated 18.09.2019 shows that the petitioner was already on bail but due to his absence, once he was declared as Proclaimed Offender, but on the other hand, keeping in view the punishment of the alleged offence, which does not fall within the prohibitory clause of Section 497 Cr.P.C and his continued confinement is not likely to serve any beneficial purpose at this stage.

7. It has been aptly observed by the Hon'ble Supreme Court of Pakistan in the case reported as "*Manzoor and 4-others vs. The State*" [PLD 1972 Supreme Court 81], that:-

"It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds

appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run."

8. For what has been discussed above, I **allow** this petition and direct the petitioner to be released on bail, subject to his furnishing bail bonds in the sum of Rs.2,00,000/- (two lac) and PR of the like amount with two sureties each, in the like amount to the satisfaction of the learned trial Court
9. The petitioner shall be at liberty to deposit cash surety as per policy of this Court.
10. Needless to mention here that the observations made hereinabove are tentative in nature and are not designed to influence the trial.

(GHULAM AZAM QAMERANI)
JUDGE