

ORDER

AAMER FAROOQ, J.---Through the instant petition, the Petitioner, Anees Ahmad Khan, seeks bail after arrest in case FIR No.198/18, dated 17.05.2018, for offence under section 489-F, P.P.C., Police Station Karachi Company, Islamabad.

2. The case of the prosecution against the Petitioner is that the complainant is Director of ECO2 Power Pakistan (Private) Limited and conducts business in alternative energy. For the purposes of arranging Services Company entered into a contract with petitioner's company and a guarantee, cheque was deposited by the petitioner drawn on Standard Chartered Bank, Rawalpindi, which when was presented for payment, was dishonoured.

3. The Petitioner applied for bail after arrest before the Magistrate, which was dismissed, vide order dated 28.11.2018. The petitioner also applied for bail after arrest before learned Additional Sessions Judge, Islamabad, which was also dismissed, vide order dated 17.12.2018, hence the petition.

4. Learned counsel for the petitioner, inter alia, contended that the cheque in question is guarantee, which does not fall within section 489-F, P.P.C.; that the services were to be provided by the complainant which he did not, hence there is no consideration; that the cheque was not towards an obligation. It was further contended that the offence in question does not fall within the prohibitory clause and in such like cases the grant of bail is a rule and refusal is an exception. It was further contended that the investigation stands concluded and the petitioner is not required for the same.

5. The learned State Counsel along with counsel for complainant, inter alia, contended that in the investigation the petitioner has been found guilty; that the cheque was handed over by the petitioner for fulfillment of an obligation; that the petitioner has committed similar offences before, which are the subject matter of FIRs Nos. 396/10 and 267/18.

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 is imputed with offence under section 489-F, P.P.C., which does not fall within the prohibitory clause of section 497, Cr.P.C. In such like cases the grant of bail is a rule and refusal is an exception. Reliance is placed on case reported as "Tariq Bashir v. The State" (PLD 1995 SC 34). The case of the petitioner does not fall within the exception enumerated in the case.

8. An investigation stands concluded and the petitioner is not required for the same. Moreover, the cheque issued is a guarantee cheque, which position has been affirmed by the Investigating Officer present in the Court. In light of the cases reported as (2013 SCMR 51) and (2018 YLR Note 157), provisions of section 489-F, P.P.C. are not attracted in cases of the guarantee cheque. In the facts and circumstances, the referred aspect makes the case against the petitioner one of further inquiry.

9. For the abovementioned reasons, the instant petition is allowed and the petitioner is enlarged on bail after arrest subject to furnishing bail bonds in the sum of Rs.2,00,000/- (Rupees Two 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

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