

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Crl.Misc. No.75-B/2020

Safar Ali
Vs.
The State and another

Serial No. of order/ proceeding.	Date of order/ proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
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19.02.2020	Mr. M. Imran Abbasi, Advocate for petitioner. Barrister Munawar Iqbal Duggal, Advocate for complainant. Mr. Zohaib Hassan Gondal, State Counsel alongwith Sadiq, A.S.I.
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The petitioner [Safar Ali] seeks post arrest bail in case FIR No.341, dated 07.08.2019, under section 489-F, PPC, registered at Police Station Kohsar, Islamabad.

2. Brief facts of the case are that the complaint [Nazar Hussain] lodged a complainant against the petitioner stating therein that he issued a cheque No.1337660 dated 31.03.2016 amounting to Rs.49,00,000/-, which on presentation was dishonoured.

3. The petitioner applied for grant of bail after arrest before the learned Judicial Magistrate, Section-30, Islamabad -West, which was dismissed vide order dated 20.11.2019 and thereafter the petitioner applied for grant of post arrest bail before the learned Additional Sessions Judge-X,

Islamabad-West, which was also dismissed vide order dated 02.01.2020 hence, the instant bail petition.

4. Learned counsel for the petitioner submitted that the petitioner is absolutely innocent and has been falsely implicated in the case; that there is no evidence to connect the petitioner with the commission of alleged offence; that the petitioner is behind the bars since his arrest and is no more required for further investigation; that the case of petitioner falls within the ambit of further inquiry; that the petitioner is not previous convict, therefore he is entitled for the grant of post arrest bail.

5. On the other hand, learned state counsel assisted by the learned counsel for the complainant vehemently opposed the grant of bail to the petitioner; that similar nature of cases have been registered against the petitioner, he is an habitual offender, therefore, the petition may be dismissed.

6. Arguments heard, record perused.

7. Tentative assessment of the record reveals that in the year 2012, the complainant sold out flat No.7-D Block No.39 Sector I-11/3, Islamabad, and a plot situated at Chathar Colony, Islamabad, to the petitioner in consideration of an amount of Rs.49,00,000/-, the petitioner issued a cheque bearing No.1337660 dated 31.03.2016 of

Barclay Bank, the same was presented at Jinnah Super Market Bank for encashment which was dishonoured. After registration of the F.I.R investigation was carried out. The petitioner was arrested on 30.10.2019. Admittedly, this occurrence has been taken place on 31.03.2016, and FIR has been registered against the petitioner on 07.08.2019 with inordinate and unexplained delay of more than three years which casts doubt on the veracity of the prosecution story. The offence u/s 489-F P.P.C entails maximum punishment of three years which does not fall within the domain of prohibitory clause of 497 Cr.P.C. The investigation has been completed and the petitioner has already been sent to judicial custody, he is no more required to the prosecution for further probe and keeping the petitioner in jail for an indefinite period will serve no useful purpose. So far as the contention of the learned State counsel that similar nature of cases have already been registered against the petitioner is concerned, there is no previous record of the petitioner to have been convicted, as such, he cannot be treated as hardened criminal. The case of petitioner falls within the ambit of further inquiry in terms of Section 497 Cr.P.C.

8. In view of the above, this petition is **allowed** subject to furnishing of bail bonds in the sum of Rs.4,00,000/- (Rupees four lac only) with two sureties each in the like amount to the satisfaction of the learned Trial Court. The petitioner may deposit cash surety as per policy of this Court.

9. Needless to add here that observations, if any, made hereinabove, are tentative in nature which shall not effect merits of the case at the trial.

~~(GHULAM AZAM QAMBRANI)~~
JUDGE

Rana.M.ift