

ORDER SHEET  
ISLAMABAD HIGH COURT  
ISLAMABAD

**Crl.Misc.No.603-B/2019**

Shahid Mehmood Abbasi

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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10.10.2019. Rao Muhammad Sarfraz, Advocate for petitioner, alongwith petitioner.  
Khawaja Shahid Rasool, Advocate for respondent No.2.  
Mr.Sadaqat Ali Jehangiri, State Counsel.  
Mr.Ejaz Ahmed, S.I, PS Lohi Bher.

Through this Criminal Miscellaneous petition, the Petitioner has prayed for pre- arrest bail in Case FIR No.64 dated 14.2.2019 under Section 489-F PPC registered at Police Station Karachi Company, Islamabad.

2. The brief facts referred in the FIR alleged by the complainant are that petitioner had received an amount of Rs.1000000/- through an agreement for transfer of house situated in Ahmed Town, Bhara Kahu, Islamabad against the total consideration of Rs.25,50,000/-, however, petitioner failed to transfer the subject house and promised to return the amount and issued a cheque No.100000025 dated 22.3.2018 in favour of complainant which was dishonoured on its presentation before the HBL, G-9 Markaz Branch, Islamabad on 02.05.2018.

3. Learned counsel for the petitioner contends that petitioner has a dispute of the subject house referred in the FIR with his previous owner and suit for specific performance is pending before the competent Court. It is further contended that CDA Authority has restrained the Registrar Office as well as the Tehsildar, Islamabad from transfer of any property by way of Mutation or Sale Deed due to which said property could not be transferred and now restriction has been lifted, however, learned counsel requests for some more time to return the said amount.

4. Conversely, learned counsel for complainant as well as learned State counsel contend that petitioner was granted pre-arrest bail on the basis of compromise vide order dated 08.04.2019 on the assurance of petitioner in shape of affidavit in which petitioner agreed to return the amount of Rs.1000000/-. It is further contended that petitioner failed to pay the agreed amount as per his commitment and an application for cancellation of pre-arrest bail was filed by the complainant in which petitioner again sought some time, the same was extended but due to non compliance of the commitment the bail granted to the petitioner was re-called by the Additional Sessions Judge-X (West), Islamabad vide order dated 20.09.2019.

5. Arguments heard. Record perused.

6. Perusal of record reveals that petitioner is accused in case FIR No. 64 dated 14.2.2019 under Section 489-F PPC Police Station Karachi Company, Islamabad whereby his personal cheque amounting to Rs.1000000/- issued in favour of complainant was dishonoured. The tentative assessment of record reveals that petitioner was granted pre-arrest bail by the Court of Additional Sessions Judge-X (West), Islamabad vide order dated 08.04.2019 on the basis of compromise as he agreed to return the amount, however, petitioner failed to return the amount, therefore, bail granted to him was re-called vide order dated 20.09.2019. The petitioner has not denied the issuance of cheque nor the liability of Rs.1000000/-, however, record reflects that he managed different time frame for the return of amount as per his own commitment but he failed to return the said amount and as such he availed almost 08/09 months to linger on the matter on one pretext or the other which shows that he is not willing to fulfill his obligation and

this conduct disentitled him for the discretionary relief of pre-arrest bail which can only be extended to those accused persons who are involved in any criminal case on the basis of malafide which is not apparent in this case, therefore, instant petition is hereby dismissed. Ad-interim pre-arrest bail already granted to the petitioner vide order dated 30.09.2019 is hereby re-called.

(MOHSIN AKHTAR KAYANI)  
JUDGE

M.S..ZAKI