

**JUDGMENT SHEET**  
**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**Crl. Misc. No.862-B/2020**

**MUHAMMAD KHALEEQ KHALID.**  
Versus  
**THE STATE AND ANOTHER.**

*Petitioner by:* Mr. Gulbaz Mushtaq, Advocate.  
*Complainant by:* Mr. Meraj Tareen, Advocate.  
*State by:* Mr. Mudassir Latif Abbasi, State Counsel.  
Mr. Noor Elahi, A.S.I.  
*Date of Hearing:* 29.07.2020.

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**LUBNA SALEEM PERVEZ; J:** Through instant petition, the petitioner seeks pre arrest bail in case FIR No.62/2020, dated 28.01.2020, for offences under section 489-F PPC, registered at Police Station Industrial Area, Islamabad.

2. Record reveals that the petitioner applied for pre-arrest bail before Additional Sessions Judge (West), Islamabad, which was declined vide order dated 13.07.2020.

3. Facts as per FIR are that the accused petitioner has issued a cheque of Rs. 92,00,000/- bearing No. 1727696028, drawn on MCB Bank, to the complainant which was deposited in Allied Bank Limited I-9 Branch Islamabad, but same was dishonored on 15.01.2020, due to insufficient balance. Hence FIR for offence u/s 489-F PPC.

4. Learned counsel for the petitioner submitted that the basic ingredient for constituting an offence under section 489-F PPC i.e. dishonest intention while issuing cheque has not been alleged by the complainant while registering FIR and, therefore, no case of dishonest issuance of subject cheque is made out; that the petitioner issued the cheque with the condition to return the previous cheques retained by the complainant; that the malafide is on the part of the complainant as the cheque was presented before the Bank as per FIR on 15.01.2020, whereas, she returned to Pakistan from U.K. on 18.01.2020; that

there is a grave high handedness of police who has acted in connivance with the complainant; that there is no business relationship between the parties rather one Farooq e Azam, brother of the complainant was working as partner with the petitioner in 2015 and invested the amount of Rs. 15,600,000/- in land and after some time he returned the plot and demanded back his money and till date the petitioner has returned Rs. 22,000,000/- to complainant/her brother; that suit for recovery of Rs. 16,000,000/- filed by the petitioner against the complainant/her brother is also pending before the concerned Civil Court; that dispute between the parties is of the civil nature and the complainant has filed the criminal proceedings just to harass and blackmail the petitioner. Learned counsel lastly submitted that the case does not fall within the prohibitory clause and the challan has been completed, therefore, there is no apprehension of tempering of record by the petitioner and there is also no apprehension of his abscondence as he is cooperating with the prosecution and attending the case as and when he is required. He prayed for confirmation of pre-arrest bail.

5. Conversely, learned counsel for the complainant vehemently opposed the arguments of the petitioner and submitted that specific role has been attributed to the accused/petitioner and neither the issuance of cheque nor the signature on it has been denied thus, dishonest motive of the accused is clearly reflecting from his conduct, attracting the provision of section 489-F PPC; that brother of the complainant has purchased a plot of land from the petitioner, however, demanded the amount invested in the plot which the accused petitioner lingered on; that nowhere the petitioner has denied the return of the amount invested by his brother which amount in fact belongs to the present complainant, therefore, the accused issued the cheque of Rs. 9,200,000/- in complainant's name; that the dishonest intention of petitioner while issuing the subject cheque is proved from the fact that after dishonoring of the subject cheque on 15.01.2020, he filed suit for cancellation of the said cheque; that there is an apprehension of abscondence of the accused as earlier also he has absconded and the proceedings u/s 87 Cr.P.C were initiated against him; that if granted pre-arrest bail, petitioner is likely to misuse the concession of bail, therefore, he is not entitled for bail. Learned counsel in support of his

contentions relied on the judgment titled *Syed Amir Jalali vs. The State* (2013 YLR626).

6. Heard the learned Counsel for the parties as well as learned State Counsel and have also perused the police record.

7. The petitioner is seeking pre-arrest bail on the ground that he has not cheated the complainant and the issuance of cheque of Rs.9,200,000/- by him was not based on dishonest motive to attract initiation of criminal proceedings in terms of section 489-F PPC. Both the parties have narrated the back ground of issuance of cheque which involves lengthy factual disputes between the parties which, at this stage, neither can be probed nor considered by this Court. The accused petitioner prima facie has not denied the issuance of cheque but has claimed that it has been issued on the condition of returning some previous cheques retained by the complainant or his brother namely Farooq e Azam. This also being contentious can be resolved properly during trial, hence, it becomes a case of further inquiry. Reliance in this regard is placed on the case law reported as ***Khiyal Saba and another Vs. The State and another (2020 SCMR 340) and Muhammad Junaid ur Rehman Vs. the State and another (2020 PCr.LJ 310)***. Since, it has been admitted by the prosecution before the Court that the accused petitioner is cooperating in the investigation, therefore, there remains no ground of his abscondence. As per police record submitted by the I.O. the investigation as well as challan have been completed. Admittedly, the accused petitioner is not previously convicted. Both the parties have also filed various suits against each other which *prima facie* relate to the controversies in connection with investment in the purchase of land by the complainant through her brother and as a consequence thereof the FIR under consideration has been registered. There is also no apprehension of petitioner's tampering with the prosecution evidence as challan has already been submitted. Moreover, the petitioner is previously non-convict and the offence does not fall within the prohibitory clause of section 497 Cr.PC, therefore, petitioner becomes entitled for grant of concession of pre-arrest bail. In this regard, guidance has been sought from the case law reported as ***Riaz Jaffar Natiq Vs. Muhammad Nadeem Dar and others (2011 SCMR, Page***

**1708), Sikandar Zaman Vs. The State etc. (2011 SCMR, page 870) and Zafar Iqbal Vs. Muhammad Anwar and others (2009 SCMR, page 1488).**

10. For what has been discussed above, this bail petition is **accepted** and the earlier ad-interim pre-arrest bail granted, vide order dated 24.07.2020, is hereby confirmed, subject to furnishing of bail bonds in the sum of Rs. 2,00,000/- (Rupees Two Lac) with one surety in the like amount to the satisfaction of learned Trial Court.

11. All the observations made hereinabove are tentative in nature and shall have no bearing on the final determination of guilt or innocence by the trial Court.

**(LUBNA SALEEM PERVEZ)  
JUDGE**

*M. Junaid Usman*