

JUDGMENT SHEET

**IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

Cr.M.BA. No. 443-M/2017.

JUDGMENT

Date of hearing: **25.10.2017.**

Petitioner: - (Nasir Iqbal) by Mr. Saeed Ahmad, Advocate.

Respondents:- (the State & 1 another) by Malak Sarwar Khan, State counsel and Barrister Dr. Adnan Khan, Advocate.

MOHAMMAD IBRAHIM KHAN, J.- This petition pertains to Cr. M B.A. 443-M of 2017 preferred by accused/Petitioner Nasir Iqbal being implicated in case FIR No. 452 dated 04.05.2017 charged under sections 489-F, 420 PPC registered at Police Station Matta District Swat and is looking for the grant of bail after arrest.

2. The Petitioner earlier tried his luck for the similar relief before the Court of learned Judicial Magistrate/Illaqa Qazi Matta Swat through bail application No. 142/4 of the year 2017, which was dismissed by an order dated 15.07.2017. Next off, the matter was taken up

before the Court of learned Izafi Zila Qazi/Additional Sessions Judge Matta Swat via B.A. No. 228/4 of the year 2017, where too the wheel of fortune did not favour the Petitioner and the application stood dismissed.

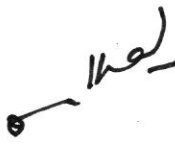
3. At first instance, the applicant-complainant presented an application to the learned Sub-Divisional Police Officer Matta Circle Swat that the accused/Petitioner had issued him cheque No. 08242748 for an amount of Rs. 20 lac of the United Bank Limited Tehsil Matta Branch on account of sale of his personal vehicle by the type of TZ NCP Model 2004. The said cheque when presented for encashment in the Bank concerned was dishonoured due to insufficient funds in the account of the accused/Petitioner. In view whereof an inquiry was initiated which culminated into FIR *ibid* registered against the accused/Petitioner.

4. Having heard arguments of learned counsel for the Petitioner, learned counsel for the complainant and learned Astt: Advocate General for the State, record with their assistance gone through.

5. It appears from the record that though the accused/Petitioner has been directly charged for issuance of bogus cheque with dishonest intention by the complainant and was mainly refused bail on the pretext being previously involved in alike offences, but bare perusal of the record would reveal that the cheque in question has been issued to the complainant in respect of sale of his personal vehicle, thus, the matter in between the parties appears to be civil in nature. Moreover the offence under which the accused/Petitioner stood nominated as an accused entails maximum punishment up to 3 years, thereby does not fall within the restrictive limbs of section 497 (1) Cr.P.C and in such like cases grant of bail is rule and refusal thereof is an exception. This principle of law has been enunciated by the Hon'ble Supreme Court of Pakistan in case law cited as 2011 SCMR 1708 "Riaz Jafar Natiq vs Muhammad Nadeem Dar and others", wherein the relevant citation speaks off:-

" Thus keeping in view the law laid down in the case of Zafar Iqbal V. Muhammad Anwar and others (2009 SCMR 1488) ordaining that granting bail must be favourably considered and should only be declined in exceptional cases.

6. Above all, the latest view of the Hon'ble Supreme Court of Pakistan in Criminal Appeal No. 273 of 2017 has altogether formed a distinct view that for the offence when an accused has been charged does not attract the prohibitory clause, there can be no strong reason to withhold the concession of bail, as grant of bail in such like cases is a rule and refusal is an exception.

7. In view of the above observations which are, of course purely tentative in nature,  the Petitioner is entitled to the concession of bail. Hence he is asked to furnish bail bonds in the sum of Rs. 10,00,000/- (Rupees ten lacs) with two sureties each in the like amount to the satisfaction of learned Trial Court, who shall

ensure that the sureties are local, reliable and men of means.

8. These are the reasons of my short order of even date.

Announced
Dt: 25.10.2017.


JUDGE

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07/11/2017
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