

JUDGMENT SHEET

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

Cr.Misc.B.A.No.326-A/2017

JUDGMENT

Date of hearing.....07-06-2017.....

Petitioner (s)... (Zakir Qureshi) by Mr. Kamran Gul,
Advocate.....

Respondent (s)....(The State etc) by M/S Yasir
Zahoor Abbasi, Assistant
Advocate General and
Muhammad Ali Khan.....

SYED MUHAMMAD ATTIQUE SHAH, J.-

Accused-petitioner seeks his post arrest bail in case
FIR No.274 dated 17.04.2017 under section 489-F of
Pakistan Penal Code, 1860 registered at Police Station
Cantt., Abbottabad.

2. The allegation against the accused/
petitioner is that he has issued a cheque amounting to
Rs.4,400,000/- to the complainant/respondent No.2 in
connection with bargain of two vehicles, which was
dishonoured on presentation in the concerned bank
due to insufficient funds in his account.

3. Arguments of the learned counsel for the accused/petitioner and learned State counsel heard and record perused.

4. Perusal of record reveals that the cheque in question was issued by the accused/petitioner in connection with bargain of vehicles allegedly purchased by him from the complainant. However, at the moment there is nothing on record to suggest that any such transaction took place between the parties, as no documentary proof has been brought on record by the complainant despite direction by the Investigating Officer, which prima facie calls for further inquiry into the matter. Although the learned counsel for the complainant and the learned AAG have placed much emphasized over the conduct of the accused/petitioner as in the past as well, cases of similar nature has been registered against him but the accused/petitioner has been acquitted in four of the said cases, while two other cases which includes the present case have been recently registered on the report of the complainant and he has to prove the criminal culpability of the accused/petitioner regarding his dishonestly issuing cheques during the trial of the case. Moreover, the offence does not fall within the prohibitory clause of section 497 Cr.P.C, as the maximum sentence under

section 489-F PPC is three years. In **Zafar Iqbal's case** (2009 SCMR 1488), a larger Bench of the august Apex Court has explicitly expressed the principles for considering the grant of bail, where offences do not fall within the prohibitory clause of section 497 Cr.P.C. The said principles have consistently been followed by the Honourable Supreme Court, as it has been held in **Riaz Jafar Natiq's case** (2011 SCMR 1708) that:

“Thus keeping in view the law laid down in the case of Zafar Iqbal v. Muhammad Anwar and others (2009 SCMR 1488) ordaining that where a case falls within non-prohibitory clause the concession of granting bail must be favourably considered and should only be declined in exceptional cases. We do not find this to be a case where it should be refused as an exception. Thus, this petition is converted into an appeal and the same is allowed and, resultantly, the petitioner is admitted to bail subject to furnishing bail bond in the sum of Rs. 1,00,000 (Rupees one hundred thousand only) with two sureties each in the like amount to the satisfaction of the learned trial Court.”

5. In any case, investigation in the present case is complete and the accused/petitioner is not required to the police for the purpose of further investigation. In peculiar facts and circumstances of the present case, no useful purpose is going to be served by keeping him behind the bars.

6. Consequently, this bail application is accepted and accused-petitioner, Zakir Qureshi son of Muhammad Zaman is admitted to bail, subject to his furnishing bail bonds in the sum of Rs.100,000/- (Rupees one lac), with two sureties, each in the like amount to the satisfaction of the *Illaq*a/Duty Magistrate, Abbottabad.

Above are the detailed reasons for short order of this Court of even date.

7. The observations rendered hereinabove, would not affect the mind of the trial Court in any manner whatsoever, during trial of the case.

Dt.07-06-2017.

J U D G E

M.Saleem/*