

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
D.I.KHAN BENCH
(Judicial Department)

Cr.MBA.No.172-D/2017

JUDGMENT

Date of hearing: **09.6.2017**

Appellant-petitioner Faheem Ullah by Mr. Umar Farooq Battani

Advocate.

Respondent State by Mr. Kamran Hayat Miankhel AAG, Mr.

Muhammad Yousaf Khan Advocate for Complainant.

MUHAMMAD AYUB KHAN, J.- Having failed to get the concession of bail from the Courts of learned Judicial Magistrate-II, D.I.Khan and learned Additional Sessions Judge-I, D.I.Khan vide orders dated 12.4.2017 and 19.4.2017 respectively, accused/petitioner Faheem Ullah has filed the instant petition for the same relief in case FIR No.308 dated 05.4.2017 registered under Section 489-F PPC at Police Station Cantt, D.I.Khan.

2. As per contents of FIR, complainant Muhammad Noor submitted an application dated 29.3.2017, to the District Police Officer, D.I.Khan to the effect that the accused/petitioner obtained

Rs.2,18,00,000/- from him for the purpose of business of medicine and in this regard on 26.7.2016, he issued two cheques i.e. one cheque bearing No.34414728 amounting to Rs.1,18,00,000/- and other cheque bearing No.34414729 amounting to Rs.10000000/- of Habib Bank Ltd. Circular Road Branch, D.I.Khan for encashment on 25.3.2017 and also scribed an *Iqrar Nama* dated 26.7.2016 in favour of complainant in presence of witnesses namely Muhammad Ramzan and Din Muhammad. On 28.3.2017, the complainant submitted cheque No.34414729 worth Rs.100,00000/- in his account at United Bank Ltd. Circular Road Branch, D.I.Khan for transfer of amount from the account of accused/petitioner but it was dishonoured due to insufficient funds. On the application of complainant/respondent No.2 above referred FIR was registered against the accused/petitioner.

3. Arguments heard and record perused.

4. Admittedly, the accused/petitioner issued the cheque in question to the complainant which was dishonoured vide cheque return memo dated 28.3.2017 for reason of *insufficient funds*, which prima facie establish that the petitioner was having no

intention to pay the outstanding amount to the complainant. The act of the petitioner amounts to financial murder of the complainant.

5. It is also on the record that the accused/petitioner issued cheque of Rs.2,75,00,000/- in favour of one Zawail which was dishonoured and in this respect a case vide FIR No.245 dated 21.3.2017 was registered under Section 489-PPC at Police Station Cantt, D.I.Khan against the accused/petitioner which prima facie suggest that he is habitual offender of issuance of cheques and defrauding the people.

6. No doubt the case in hand is not covered by the prohibitory clause of Section 497 Cr.P.C, but that alone cannot hold the petitioner entitled to the concession of bail. In such like cases, grant of bail is not a rule of universal application and each case is to be decided on the basis of its own merits keeping in view its own set of facts and circumstances. Reliance may safely be placed on *Muhammad Siddique. Vs. Imtiaz Begum and two others (2002 SCMR 442), Shameel Ahmad. Vs. The State (2009 SCMR 174) and Muhammad Imran. Vs. The State and another (2012 Y L R 2748).*

7. The tentative assessment of the available record prima facie connects the accused/petitioner with the commission of the offence and he is not entitled to the concession of bail. Consequently, his instant petition for release on bail is dismissed.

Announced.
Dt:09.6.2017.

JUDGE