

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

Cr.MBA.No.362-D/2019

Abdul Majid

Versus

The State and another

JUDGMENT

For petitioner: Mr. Saif-ur-Rahman Khan Advocate.

For State: Ms. Nahid Akhtar Advocate.

For complainant: Muhammad Mohsin Ali Advocate.

Date of hearing: **18.12.2019.**

S.M. ATTIQUE SHAH, J.- Through this petition the petitioner Abdul Majid has sought bail after arrest in case FIR No.45 dated 21.02.2019 under Sections 419/420 PPC registered at Police Station Paroa, D.I.Khan.

2. The brief facts of the case, as set forth in the crime report, are that on 18.01.2018 complainant Haji Bandi Gul submitted an application to the local police for registration of case against the petitioner. On the said application, inquiry was conducted and resultantly the ibid FIR was registered. It is averred in the application that on 19.4.2017 the complainant handed over Rs.6,50,000/- alongwith passport, CNIC and photographs to the petitioner for the purpose of performing Hajj but neither the petitioner sent him for the performance of Hajj nor returned the above said amount to him. The

complainant approached the petitioner and demanded the amount but at first he was making lame excuses and thereafter disappeared. The complainant reported that the petitioner committed fraud with him and deprived him from the above said amount.

3. After his arrest, the petitioner submitted an application for his release on bail which was allowed by learned Judicial Magistrate, Paroa D.I.Khan vide order dated 12.3.2019. Thereafter the complainant submitted an application for cancellation of bail of the petitioner which was allowed by learned Additional Sessions Judge-VI, D.I.Khan vide order dated 08.5.2019, hence, this petition.

4. Arguments heard and record perused.

5. Perusal of the record reveals that the petitioner is directly charged in the FIR by the complainant. The petitioner obtained a huge amount of Rs.6,50,000/- from the complainant for sacred journey of Hajj but he failed to send him for the said purpose and despite lapse of sufficient long time did not return the amount to the complainant. The record suggests that the petitioner is habitual offender and many cases of dishonestly issuing cheques have been registered against him. Though the punishment provided for the offence does not come within the prohibitory clause of 497 Cr.PC but it is not a rule of universal application.

6. The "deceptive behavior" of the petitioner depriving the innocent and poor people from their life

saving is a factor, which cannot be ignored lightly. The offence is not only heinous but also an offence against humanity and society, therefore, the petitioner does not deserve any discretionary relief. In similar nature case titled "*Haji Shahid Hussain and others Vs. The State and another*" reported in 2017 SCMR 616, the apex Court refused bail to the petitioners and held that:-

"This nature of frauds have become so common that, every year, before the Hajj Season commences, innocent and rustic peoples are looted by various so called agencies including the unauthorized tour operators, of which judicial notice is required to be taken to curb the increasing menace of frauds practiced in religious and pious matters, therefore, Courts are required to treat these cases differently and such frauds must be brought to halt."

7. Taking a tentative assessment of the available record, there exists a prima facie case against the petitioner, therefore, he is not entitled to the concession of bail. Consequently, the instant petition being without any merit is dismissed.

8. Needless to say that any observation made in this order being tentative in nature should in no way prejudice the proceedings before the learned trial Court.

Announced.
Dt: 18.12.2019.

Imran/*

Imran
JUDGE

(S.B)
Hon'ble Mr. Justice S.M. Attique Shah

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