

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

Cr.M.BA. No. 31-M/2017.

JUDGMENT

Date of hearing: **23.02.2017 & 08.03.2017.**

Petitioner: - (Muhammad Saad Naseem) by Raja Rizwan Abbasi, Advocate.

Respondents:- (the State & 1 another) by Ms. Mehnaz, State counsel and M/S Irfan Ahmad Khan, Shujah Ullah and Qaiser Iman, Advocates.

MOHAMMAD IBRAHIM KHAN, J.- Muhammad

Saad Naseem Petitioner herein, entrapped in case FIR No. 1086 dated 04.11.2016 charged under section 489-F PPC registered at Police Station Timergara District Dir Lower is optimistic for the grant of bail after arrest.

2. Prior to, bail application bearing No. 276/4 of the year 2016 was preferred by the Petitioner for the same relief before the Court of learned Sessions Judge/Zila Qazi Dir Lower at Timergara which was dismissed vide the order dated 14.12.2016, hence this bail petition.

3. The complainant Mohammad Suleman addressed his application dated 04.11.2016 to the

Station House Officer of PS Timergara narrating his investment with Saad Naseem pertaining to import & export business by the name of Apex Heights Private Limited. The Applicant/complainant was asked to invest his money. He thereby selling his car IDN 8090 for an amount of Rs. One million (ten lacs) which was anon hand by invested and an agreement was executed to that effect. Later in the year 2015 it was known that the said Saad Naseem is a swindler who has already defrauded many people against whom various cases have been registered in different Police Stations. On demanding the invested amount a cheque bearing No. 0983374 for an amount of Rs. 600,000/- was handed over to the Applicant/complainant, which was dishonored. Ergo a request was made for registration of the case against the said Saad Naseem.

4. Exactly word by word extract of complaint/application was later made orderly which is the subject-matter of the FIR *ibid*.

5. Having heard arguments of learned counsel for the Petitioner on 23.02.2017 as a request was forwarded to be heard being a

practicing lawyer at Islamabad, whereupon his request was acceded to and he was heard on the said date. Learned counsel for the complainant has been heard today, record gone through.

6. Learned counsel for the Petitioner mainly relied on 2014 SCMR 1032 “Muhammad Sarfaraz vs the State and others” and 2014 SCMR 1034 “Ghuam Mohy-ud-Din alias Haji Babu vs the State.

The theme is for the grant of bail in offences falling which do not come within the prohibitory clause of section 497 (1) Cr.P.C unless and until there is reason to believe of an exception. Inversely learned counsel for the complainant is of the view that there are plethora of cases registered against the Petitioner and altogether it lead to an inference that there are exceptions to the grant of bail to the Petitioner being involved in cases committed fraud with numerous persons of alike offences.

7. There may be zillion cases being registered against the accused/Petitioner but there are copies of the judgments contained in all those cases placed on record whereby the august Islamabad High Court Islamabad has extended him the concession of bail. The record speaks off that

even Muhammad Suleman the complainant of this case is also of dubious character being involved in case FIR No. 193 dated 22.6.2016 charged under section 489-F PPC registered at PS Shalimar Islamabad. He has been extended bail on 08.08.2016 by the Court of learned Duty Additional Sessions Judge VIII (West) Islamabad. In the case in hand the Petitioner is said to have committed fraud when the cheque has been dishonored for an amount of Rs. 6,00,000/- (six lacs) only but in the case registered against the complainant he is said to have issued cheque No. 01643193 for an amount of Rs. 30,00,000/- (thirty lacs), which amount is five (5) times bigger than that of the present accused/Petitioner.

8. Where there are cross claims by cheaters who exchanged cheques which have been dishonored there would always be a scope of further inquiry as to who amongst the rival claimants has in fact cheated the other.

9. Had there been any exception being pointed out before this Court, the Petitioner would have not been entitled to the concession of bail. But as the punishment for the offence is not falling

under the prohibitory clause of section 497 (1) Cr.P.C, thus the Petitioner be set at liberty subject to his furnishing bail bonds in the sum of Rs. 200,000/- (Rupees two 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.

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

Announced
Dt: 08.03.2017.

JUDGE