

JUDGMENT SHEET
**IN THE PESHAWAR HIGH COURT,
PESHAWAR.**

JUDICIAL DEPARTMENT

Cr.M B.A No.783-P/2022

Bilal Iqbal

Vs

The State etc

JUDGMENT

Date of hearing **20.04.2022**

Petitioner (s) by: M/s Anjum Pervez and Nazmeen Akhtar,
Advocates

State by: Mr. Muhammad Nisar Khan, AAG

Complainant by: Mr. Amin-ur-Rehman Yousafzai,
Advocate

S M ATTIQUE SHAH, J.-. The petitioner seeks his post arrest bail in case FIR No. 123 dated 08.02.2022 charged under section 489-F PPC registered at Police Station Shaheed Gulfat Hussain, Peshawar. Earlier, the petitioner was declined similar relief by Additional Sessions Judge-IV, Peshawar vide order dated 14.03.2022.

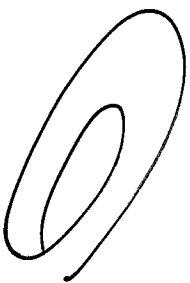
2. Heard. Record perused.

3. Record reflects that accused/petitioner is charged by the complainant for issuing him three cheques, (i) cheque bearing No.10327928



amounting to Rs.40,800,000, issued on 12.10.2021, (ii) cheque bearing No. 10327929 amounting to Rs.1, 60,00,000/-, issued on 21.10.2021 and; (iii) cheque bearing No.10327930 amounting to Rs.94,50,000/-, issued on 21.10.2021, in consideration regarding business transaction qua supply of different Mobile sets to the accused/petitioner, which on presentation before the concerned Bank, were dishonored on account of alleged payment stopped by the drawer and; insufficient funds.

4. Be that as it may, without going into deep merits of the case, lest it may prejudice the case of either party at the trial, suffice it to say that the offence with which the petitioner is charged, does not fall within the prohibitory clause of section 497 Cr.P.C. Besides, the maximum punishment provided for the offence is three years, or with fine, or with both. The scheme of section 497 Cr.PC is to release an accused on bail if his case does not fall within the prohibitory clause of Section 497 Cr.PC. Indeed, bail in such like cases is a rule, and refusal thereof is an exception. **(2021 SCMR 2092)**
"Muhammad Nasir Shafique Vs The State



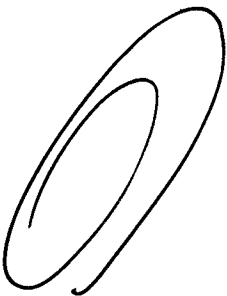
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through Prosecutor General Punjab and another". (2011 SCMR 1708) "Riaz Jafar Natiq Vs Muhammad Nadeem Dar and others".

5. Given, that a huge amount is involved in the instant case, however, the legislature in its wisdom has provided in clear terms that the offence ***shall be punishable with imprisonment which may extend to three years, or with fine, or with both.***

Therefore, bail cannot be withheld merely on the ground of the involvement of a huge amount in a case. Granted, that bail can be declined in offences, which do not fall within the prohibitory clause of section 497 Cr.PC, but, in the circumstances, when strong and; exceptional grounds exist, i.e. where the accused is habitual or has misused the concession of bail, which is certainly not the case here. Moreso, it is settled that ***to err in granting bail is better than to err in declining it.***

6. So far as the registration of other criminal cases against the accused/petitioner is concerned, there is nothing on record regarding his previous conviction in any of such cases. Mere registration of other cases against an accused without any conviction therein is not sufficient ground to deprive



him of the concession of bail. Besides, investigation in the case is complete and the petitioner is no more required for further probe, therefore, it would serve no useful purpose to keep him behind the bars for an indefinite period.

7. Furthermore, the enlargement of an accused on bail does not amount to his acquittal, rather, instead of being in jail, he is surrendered into the hands of sureties, who are responsible for his presence before the trial Court.

8. For what has been discussed above, this petition is allowed and the petitioner is admitted to bail, provided he furnishes bail bonds in the sum of Rs.10,00,000/- (Rupees one Million) with two sureties each in the like amount to the satisfaction of Illaqa/Duty Judicial Magistrate.

Above are the detailed reasons for the short order of even date, which is the result of the tentative assessment of the available record of the case, which shall not influence the judicial mind of the learned trial Court in any manner.

Announced
20.04.2022


J U D G E

Hon'ble Mr. Justice S M Attiaque Shah, HJ