

IN THE SUPREME COURT OF PAKISTAN  
( Appellate Jurisdiction)

PRESENT:  
Justice Qazi Faez Isa, CJ  
Justice Naeem Akhtar Afghan

**Criminal Petition No. 513-L of 2024**  
(On appeal against the order dated 15.04.2024 of the Lahore High Court, Lahore passed in CrI. Misc. No. 5587-B of 2024)

*Atif Ali* Petitioner

*Versus*

*The State, etc.* Respondents

For the petitioner:      Mr. Abdul Hameed Rana, ASC  
   A/w. petitioner  
   (via video link from Lahore)

For the state:              Mirza Abid Majeed, DPG, Punjab

Complainant:              In person  
   (via video link from Lahore)

Date of hearing:              30.08.2024

ORDER

**NAEEM AKHTAR AFGHAN, J.** The petitioner has surrendered before this Court for grant of pre-arrest bail under section 489-F of the Pakistan Penal Code, 1860 (**PPC**) in FIR No. 2643/23 registered with police station Hujra Shah Muqeem, District Okara on 19 December 2023 by Riaz Ahmed s/o Muhammad Amin with the allegations that on 24 August 2023 the petitioner had purchased a load of corn but he was short of money due to which he availed an amount of Rs.1,139,000/- as "*Qarz-e-Hasna*" from him with statement that he will return the same on 14 September 2023. The petitioner also handed him cheque No.1847025446 of Rs.1,129,000/- with due date of 14 September 2023. Thereafter petitioner delayed the payment of loan from on one pretext to another. When the petitioner presented the cheque in the bank same was dishonored.

2. On 13 May 2024, at the very outset, learned counsel for the petitioner stated that the petitioner is ready to pay the amount of Rs.1,129,000/- to the complainant within fifteen days. On the said date, the complainant appeared by waiving notice and he agreed to the offer made by learned counsel for the petitioner.

In view of the above, the petitioner was granted ad-interim pre-arrest bail by this Court on 13 May 2024.

3. On 5 June 2024 this Court was informed that the parties have arrived at a full and final settlement to the effect that petitioner will pay an amount of Rs.800,000/- to the complainant out of which Rs.200,000/- was paid in cash by the petitioner to the complainant in Court with assurance that remaining amount of Rs.600,000/- will be paid by him to the complainant before the next date of hearing.

4. On all the subsequent dates, petitioner did not pay the agreed balance amount of Rs.600,000/- to the complainant and availed opportunities on different pretexts. Finally on 30 August 2024 petitioner requested for adjournment on the ground that due to fracture of his arm in an accident he was unable to arrange for the money and he is ready to pay Rs.100,000/- to the complainant but the complainant refused to accept the same and requested to decide the petition on merits.

5. After hearing learned counsel for the petitioner, learned counsel for the complainant and learned Deputy Prosecutor General, Punjab, we have perused the available record which reveals that the petitioner was running business of commission shop and he had purchased different crops including corn from the complainant from time to time. They had different deals and were also having bank transactions for sale/purchase of crops. The counterfoil of the disputed cheque (annexed by the petitioner at page 5 of the Crl. Misc. A. No. 635/2024) reveals that the disputed cheque (*in blank*) was handed over to one *Abbas Wattoo* as guarantee by the petitioner. It further reveals that the petitioner and complainant had some difference with regard to settlement of accounts. In this regard the petitioner had filed suit for Rendition of Accounts against the complainant before the Court of Civil Judge, Ranala Khurd on 15 December 2023. On fourth day of filing of the suit by the petitioner, the complainant got registered FIR No. 2643/23 under section 489-F PPC against the petitioner on the basis of the disputed cheque.

Contents of the plaint of the suit for Rendition of Accounts filed by the petitioner against the complainant and copies of the ledger (*Khata*), *transport builties* and the other relevant documents reveal of the business transactions between the parties.

6. In view of the above circumstances, it is yet to be established at the trial as to whether the disputed cheque was issued by the petitioner to the

complainant with dishonest intention, as to whether the purpose of issuance of disputed cheque was to repay loan to fulfil an obligation or as to whether the same was handed over (*in blank*) by the petitioner to *Abbas Wattoo* as guarantee for business transaction with the complainant.

7. On the basis of tentative assessment of the material so far available on record, the apprehension of the petitioner about his arrest by the police at the behest of the complainant with ulterior motives to create humiliation and unjustified harassment cannot be ruled out of consideration. The case against the petitioner also falls within the ambit of further inquiry. In the cases of **"Salman Mushtaq v The State"**<sup>1</sup>, **"Ahtisham Ali v The State"**<sup>2</sup>, **"Fahad Hussain v The State"**<sup>3</sup>, **"Gulshan Ali Solangi v. The State"**<sup>4</sup>, **"Muhammad Sadiq v. The State"**<sup>5</sup> and **"Rana Muhammad Arshad v. Muhammad Rafique"**<sup>6</sup>, apart from the grounds of malafide, ulterior motives and abuse of process of law, the accused was granted pre-arrest bail on the ground of further inquiry as well.

8. For the above reasons, while granting leave, the petition is converted into appeal. The same is accepted and the ad-interim pre-arrest bail granted to the petitioner under section 489-F PPC in FIR No. 2643/23 police station Hujra Shah Muqem, District Okara *vide* order dated 13 May 2024 is hereby confirmed.

The observations made herein above are tentative in nature and same shall not influence merits of the case at the trial.

Chief Justice

Judge

Announced in the open court on 04.09.2024

Islamabad

30.08.2024

Atif\*/

NOT APPROVED FOR REPORTING

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<sup>1</sup> 2024 SCMR 14

<sup>2</sup> 2023 SCMR 975

<sup>3</sup> 2023 SCMR 364

<sup>4</sup> 2020 SCMR 249

<sup>5</sup> 2015 SCMR 1394

<sup>6</sup> PLD 2009 SC 427