

**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**

**PRESENT:**

MR. JUSTICE SAJJAD ALI SHAH

MR. JUSTICE YAHYA AFRIDI

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITION NO.957 OF 2021**

(Against the order dated 03.08.2021 of the  
Lahore High Court, Lahore passed in Crl.  
Misc. No. 45363-B/2021)

Muhammad Nasir Shafique

...Petitioner(s)

**Versus**

The State through Prosecutor General Punjab and another

...Respondent(s)

For the Petitioner(s):

Mr. Asghar Ali Gill, ASC

Syeda B. H. Shah, AOR

For the State:

Mirza Muhammad Usman, D.P.G.

Mr. Muhammad Aslam, S.I.

For Respondent No.2:

In person

Date of Hearing:

23.09.2021

**ORDER**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J.-** This petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has been filed against the order dated 03.08.2021 passed by the learned Lahore High Court, Lahore whereby the post-arrest bail was declined to the petitioner.

2. As per contents of the crime report bearing FIR No.1258/20 dated 03.10.2020 registered under Sections 489-F PPC at Police Station Sargodha Road, Faisalabad lodged by Asif Ali it was alleged that the petitioner borrowed Rs.70,00,000/- from him due to previous relationship to buy a house from his brothers. The petitioner issued a cheque to the complainant against the borrowed amount which on presentation was dishonored resulting into lodging of the aforesaid crime report.

3. *Learned counsel for the petitioner has vehemently contended that in fact the story narrated in the crime report is false. Contends that the amount which is alleged against the petitioner is an afterthought and as such the petitioner is not liable for the amount which is alleged against him. Further contends that Panchayat was convened which ultimately came to the conclusion that only Rs.8000/- are outstanding towards the petitioner. Lastly, it is contended that maximum punishment for the offence provided in the statute is 03 years, therefore, the petitioner is entitled for the concession of bail on this score alone.*

4. *On the other hand, learned Law Officer along with the complainant, present in person, contends that he had sold one plot against the consideration of Rs.62,00,000/- and the rest of the amount was paid in cash in two installments. Contends that the complainant has been deprived of huge amount and as such the petitioner does not deserve any leniency.*

5. *We have heard the learned counsel for the petitioner and gone through the record.*

*As per the contents of the crime report, the allegation leveled against the petitioner is of depriving the complainant of huge amount under the garb of friendship. On the previous date of hearing, we had specifically asked the complainant about the mode of payment of the amount to the petitioner, upon which he sought time and the case was fixed for 23.09.2021. Today, during the course of proceedings, the complainant categorically stated that the amount paid to the petitioner was in fact in cash and the same was not paid in lieu of any agreement or receipt in this regard can be furnished. Apart from this, we are told that the petitioner is behind the bars for the last 05 months and the maximum punishment provided under the statute is 03 years. As the amount was paid in installments which is not satisfactorily disclosed by the complainant, therefore, we are hesitant to make any observation in this regard, hence leaving it to be decided by the Trial Court after recording of evidence. Liberty of a person is a precious right which cannot be taken away without exceptional foundations. The law is very liberal especially when it is salutary principle of law that the offences which do not fall within the prohibitory clause, the grant of bail is a rule while its refusal is mere an exception. By following the aforesaid*

*principle and taking into consideration all the facts and circumstances stated above, we are of the view that the petitioner has made out a case for the grant of post-arrest bail. Resultantly, this petition is converted into an appeal and allowed, the impugned order is set aside and the petitioner is granted post-arrest bail subject to his furnishing bail bonds in the sum of Rs.10,00,000/- (rupees one million) with one surety in the like amount to the satisfaction of the learned Trial Court.*

JUDGE

JUDGE

JUDGE

Islamabad, the  
23<sup>rd</sup> of September, 2021  
Approved for reporting  
Waqas Naseer/\*