

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT HYDERABAD

Cr. Bail Application No. S- 731 of 2020

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**DATED                      ORDER WITH SIGNATURE OF JUDGE**

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For orders on office objection.  
For hearing of main case.

28.09.2020

Mr. Nasarullah A. Khaskheli, Advocate for applicant.

Ms. Sobia Bhatti, Asst. Prosecutor General, Sindh.

Mr. Muhammad Arif Rajput, Advocate files power on behalf of complainant, which is taken on record.

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**ABDUL MAALIK GADDI, J-** Having remained unsuccessful in obtaining his release on bail from the trial Court in Crime No.65 of 2012 registered under Section 489-F PPC at PS Daur, now the applicant Liaquat Ali s/o Soomar Khan Mari is seeking his release on bail in the said crime through this bail application.

**2.** The allegation against the applicant is that he had allegedly issued a cheque of Rs.16,00,000/- [Rupees Sixteen Hundred Thousands] to the complainant on account of some sell and purchase of tractor, however, when the said cheque was presented before the concerned bank i.e. United Bank Daur Branch for its encasement, the same was dishonoured.

**3.** It is contended by learned counsel for the applicant that the case against the applicant is false and has been registered due to malafide intention as the applicant had no concern with the complainant party; that there is delay of about 5 months in lodging the F.I.R which has not been plausibly explained by the complainant therefore, on this ground alone false implication of the applicant in his case with due deliberation cannot be ruled out; that the punishment under which the applicant stands charged does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C; that case has been challaned and applicant is no more required for investigation therefore, he prays for confirmation of interim bail.

**4.** On the other hand, learned A.P.G assisted by learned counsel for the complainant while opposing this bail application submits that the applicant / accused is involved in a case of forgery and cheating;

that the accused is nominated in F.I.R with specific role of issuance of cheque amount to Rs.16,00,000/- which on presented was bounced, therefore, he is not entitled for concession of extra ordinary relief of pre-arrest bail.

5. I have heard the arguments of learned counsel for the parties and perused the material available on record with their able assistance.

6. It appears from the record that delay in lodging the F.I.R has been satisfactorily explained by complainant by stating in his F.I.R that after dishonouring the cheque first he approached the concerned police for lodgement of his F.I.R but on refusal to do so, and thereafter, he approached the trial Court and obtained the order for registration of F.I.R. The allegation against the applicant is that he had issued a cheque of Rs.16,00,000/- [Rupees Sixteen Hundred Thousands] to the complainant and when complainant presented the same before the concerned bank i.e. United Bank Daur Branch for its encashment, the same was bounced / dishonoured. The plea raised by applicant is that no such incident has taken place and complainant has managed the whole story with malafide intention. However, record reflects that after lodgement of F.I.R, the complainant remained absconder for about eight (08) years and has been arrested on 02.06.2020 and if he was innocent then he should have joined the trial, however, he chosen to become fugitive from law, hence is not entitled for any relief at this stage. It is also noted that the case and claim of the complainant has been found supported by the statement of PWs recorded u/s 161 Cr.P.C as well as the subject bounced cheque is also with the possession of Investigating Officer.

7. It has vehemently been argued by learned counsel for applicant that the punishment of the offence under which the applicant has been booked does not fall within the prohibitory clause of Section 497 Cr.P.C. I have, however, felt not persuaded to agree with the learned counsel for the applicant for the reasons that as per observation made hereinabove, there are strong piece of evidence collected by the investigating officer against the applicant in his case. The case is at initial stage. Moreover, none can claim bail as of right in non-bailable offences even though the same do not fall under the prohibitory clause of Section 497 Cr.P.C. In this respect, I am supported with the case of **Muhammad Siddique v. Imtiaz Begum and 2 others** reported in [2002 SCMR 442]. If any other authority on the same

point is needed, reliance can also be placed in the case of ***Imtiaz Ahmed and another v. The State*** reported in [PLD 1997 SC 545], wherein it has been held that even in respect of offences not falling under prohibitory clause of Section 497 Cr.P.C, the Court may decline to admit the accused to bail, if there existed recognized exceptional circumstances. Since, at present sufficient material is available on record against the applicant for his involvement in this case therefore, he is not entitled for the relief claimed for.

**8.** It is pertinent to note here that cheating and forgery have become great menace to our society and needless to say that same are not an offence against individual rather an offence against society and the involvement of the applicant in such like offences is further detrimental to social fabric.

**9.** Accordingly, *prima facie* and at this preliminary stage of bail, it appears that the ingredients of Section 489-F PPC are being satisfied. It would only after trial and once evidence is led in the trial, the trial Court will be able to conclude whether the cheque was issued in fulfilment of an obligation or otherwise.

**10.** In view of the above, the applicant has failed to establish his case within purview of sub-section 2 of Section 497 Cr.P.C. and he *prima facie* appears to be involved in the commission of offence hence, is not entitled for concession of bail at this stage. I, therefore, **dismiss** this Criminal Bail Application. However, trial Court is directed to conclude the trial as early as possible, preferably, within a period of 45 working days from receipt of this order and no unnecessary adjournment shall be granted to either side. Office is directed to immediately send the copy of this order to the trial Court for information and compliance.

**11.** Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the time of.

**JUDGE**

**\*Hafiz Fahad\***