Form No: HCJD/C-121
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 1393-B/2021

Nadia Nayab Sheikh
Vs.
The State & another.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	12.01.2022	Tariq Mohammad Khan Marwat, Advocate for petitioner. Mr. Sher Afzal Khan Marwat, Advocate for respondent. Shehryar Gondal, State Counsel along with Pervaiz Khan, ASI.

ARBAB MUHAMMAD TAHIR J: Through this Criminal Miscellaneous, petitioner/accused (Nadia Nayab Sheikh) has prayed for post-arrest bail in FIR No. 213 dated 11.09.2019, under Section 489-F PPC registered with Police Station Secretariat, Islamabad, after its dismissal from the Court of learned Additional Sessions Judge-IX, Islamabad (West) vide order dated 18.09.2021

2. According to the allegations set-forth in the FIR, complainant invested amount of Rs. 5 million with the petitioner for which accused/petitioner issued cheque of the said amount to the complainant, but the same was dishonored by the concerned bank, due to insufficient funds.

3. Learned counsel for the petitioner contended that there was business transaction between the

petitioner and complainant; that the subject cheque was issued as guarantee and no offence within the meaning of Section 489-F PPC is made out; that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C; that the petitioner is innocent and has been implicated falsely, therefore, entitled to the concession of post-arrest bail; that the petitioner is no more required for further investigation. Learned counsel relied upon case laws reported as 2021 SCMR 822, PLD 1995 SC 34, 2010 YLR 624, 2020 PCr.LJ 268,2013 MLD 1238.

4. On the other hand, learned counsel for the complainant argued that the issue of non-fulfillment of obligation under an agreement was never challenged by the petitioner before any court; she conceded that there was an agreement of investment between the parties in the business of sale and purchase of cereals for which the cheque was issued in order to discharge liability and the issuance of cheque is not denied, therefore, petitioner is not entitled to the concession of post-arrest bail.

5. Arguments heard, record perused.

6. Record reveals that the lady petitioner is behind the bars for more than one year and two months in a case which entails maximum punishment upto three years. The investigation has since been completed and the petitioner is no more required for further investigation and keeping her behind the bar for indefinite period would not serve any purpose while conclusion of trial is not in sight.

Mere involvement in other cases without conviction is no ground to decline post arrest bail to the lady petitioner.

7. The Hon'ble Supreme Court of Pakistan in an identical post arrest bail of a lady in **Crl P. No.495 of 2021, titled "Syeda Sumera Andleeb v. The State and another**" allowed bail vide order dated 07.06.2021 by holding as under:-

> *"It is an admitted fact that the petitioner was maintaining a joint account with her husband, who is fugitive from law. The petitioner was taken into custody by the local police and she is behind the bars for the last 11 months without commencement of trial. The maximum punishment provided under the statute is 3 years. It has been surfaced on the record that the signature over the cheque mismatched with the specimen signature, which ultimately dishonored. So far as the argument of learned Law Officer that the petitioner is involved in a number of cases of similar nature is concerned, mere registration of criminal cases does not deprive a person from grant of bail, if he/she is otherwise entitled for the same relief. In Muhammad Rafiq Vs. State (1997 SCMR 412), this Court has candidly held that if an accused is involved in a number of cases, it is not sufficient to deprive him of his liberty. Same was the view of this Court in Moundar Vs. The State (PLD 1990 SC 934). Even otherwise, the petitioner is a woman folk and has three children to look after including a child of 5 years of age. The offence does not fall within the prohibitory clause of Section 497 Cr.P.C."*

8. In view of above tentative assessment, instant Criminal Misc. is allowed. The petitioner is admitted to post-arrest bail subject to her furnishing bail

bonds to the tune of Rs.100,000/- (Rupees one hundred thousand) with one surety in the like amount to the satisfaction of the learned Trial Court.

09. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Kamran