ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 517-B of 2022

Rehmat Zada
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.
	29.04.2022	Mian M. Arshad Javed, Advocate for the petitioner. Syed Shahbaz Shah, State Counsel along with Ejaz, ASI.

Through the instant Criminal Miscellaneous, petitioner (*Rehmat Zada*) prays for post-arrest bail in FIR No. 04, dated 03.01.2019, under Section 489-F PPC, registered with Police Station Sabzi Mandi, Islamabad.

2. According to the allegations set-forth in the FIR, petitioner with whom the complainant had business relations, in order to made good the payment, issued cheque worth Rs.15,00,000/- which, on presentation, stood dishonored by the concerned bank, due to insufficient funds.

3. Learned counsel for the petitioner argued that the very registration of the instant FIR is tainted with *malafide* on the part of complainant, who by exerting pressure in another criminal case got issued the instant cheque; that case of the petitioner calls for further inquiry; that nothing is to be recovered from his possession; that investigation has been completed and petitioner is no more required for further investigation and that the alleged offence does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C, therefore, entitled to the concession of post-arrest bail. Learned counsel relied upon case laws reported as ***2021 SCMR 822, 2020 SCMR 1268*** and ***2014 SCMR 1032.***

4. On the other hand, learned State Counsel argued that petitioner is specifically nominated in the subject FIR; that issuance of cheque and its dishonouring are admitted facts; that petitioner is a habitual offender, remained absconder, therefore, not entitled to the concession of post-arrest bail.

5. Arguments heard, record perused.

6. It is settled principle that in an offence not falling within the ambit of prohibitory clause of Section 497 Cr. PC, grant of bail is a rule and refusal is an exception.

7. In order to see as to whether petitioner is entitled to post-arrest bail in attending circumstances of the case as a rule, or his case falls within the exception, record has been examined whereby it reveals that prior to the registration of instant FIR, complainant earlier got registered FIR No. 298, dated 02.06.2017, Under Section 381-A, 411 PPC, at Police Station Taxila, Rawalpindi, regarding theft of his car which was recovered from the possession of the petitioner in dubious condition as '*cut & weld*'. In the said case, petitioner managed to obtain concession of post-arrest bail after entering into compromise with the complainant by issuing a cheque, the subject matter of instant FIR, which on presentation stood dishonoured by the concerned bank. So, in such state of affairs, there is no question of issuance of the subject cheque under duress or coercion, as alleged by learned counsel for the petitioner.

8. Record further reveals that petitioner is also subject of another FIR bearing No.272 of 2021 under section 406 PPC, PS Taxila, Rawalpindi. In addition, he had been keeping himself away from the process of law in the instant case and proceedings in terms of Section 87 Cr. PC were also initiated against him. Not only this, but he had been declared a Proclaimed Offender in the earlier FIR got registered by the complainant vide order dated 21.02.2018.

9. On tentative examination of the record it is established that petitioner is prone to repeating the offence. The petitioner had been declared a proclaimed offender in the FIR registered in December 2018. The material placed on record makes the case of the petitioner being falling into exceptions to the rule of grant of bail i.e. *likelihood of his abscondance to escape the trial* and *to repeat the offence keeping in view his previous criminal record* wherein he has prima facie acted in the commission of alleged offence.

10. For reasons mentioned above, the petitioner has failed to make out a case for grant of post-arrest bail at this stage. Consequently, instant criminal miscellaneous is **dismissed**.

11. The observations made herein above are tentative in nature and shall not prejudice the case of either party.

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R. ANSARI