

**ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

Crl. B.A. No. 274 of 2016.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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For hearing

09-09-2016

Mr. Ali Gul Abbasi advocate for applicant.
Mr. Saleem Akhtar, Additional P.G for the State.

Applicant/accused Akhtar Ali seeks post-arrest bail in crime No. 2 of 2016 registered at P.S. Fareed Dero, for offences under sections 489-F,406,34 PPC.

Brief facts of the prosecution case, as disclosed in the FIR, are that on 22.11.2013, complainant Saeed Ahmed was present at his otaq where it is alleged that accused Akhtar Ali, Mazhar Ali and Mushtaq appeared and car of complainant was purchased by Akhtar Ali and he issued cheque of Rs. 15,00,000/- to the complainant bearing No.5637428, account No.0209623101 of UBL Branch, Mithiani, dated 1.12.2014. This all was done in presence of PWs. Complainant went to Bank, but cheque was dishonored. Thereafter, complainant again approached accused and another cheque of Rs. 15,00,000/- bearing No.3567023, account No.0209623101 of UBL Branch, Mithiani, dated 1.12.2015 was issued by accused Akhtar Ali to complainant in presence of PWs. Complainant again went to the Bank, but it was dishonored. Finding no other way complainant approached police but his FIR was not registered. Thereafter, complainant after seeking directions from learned Sessions Judge/ex-Officio Justice of Peace, Naushehro Feroze, got FIR registered against accused persons under sections 489-F, 406, 34 PPC. After usual investigation, challan was submitted against the accused.

Accused Akhtar Ali, Mazhar Ali and Mir Mohammad applied for bail before learned Additional Sessions Judge, Moro, the concession of bail was extended to accused Mazhar Ali and Mir Mohammad, but the same was declined to applicant/accused Akhtar Ali vide order dated 27.4.2016. Thereafter, applicant/accused approached this court.

Learned advocate for applicant mainly contended that complainant and accused Akhtar Ali were the business partners and the dispute arose between them when murder was committed in the vicinity, in which complainant was implicated and complainant due to dispute over partnership managed cheques and lodged false FIR. It is further contended that applicant/accused is in judicial custody since last six months, yet there is no progress in the trial. It is also contended that alleged offences do not fall within prohibitory clause of section 497 CrPC. In support of his contentions, learned counsel relied upon cases of **Riaz Jafar Natiq v. Muhammad Nadeem Dar and others (2011 S C M R 1708)** and **Muhammad Sufyan v. the State (2012 Y L R 2900).**

Learned Addl. P.G conceded to the contentions raised by learned advocate for the applicant/accused and recorded no objection in view of above cited case law.

I am inclined to grant bail to the applicant/accused for the reasons that co-accused Mir Muhammad and Mazhar Ali have already been granted concession of bail by the trial court. It is argued that complainant and applicant/accused were business partners and cheques of the applicant have been managed by the complainant. Applicant/accused is in custody since last six months and yet there is no progress in the trial. In case of Riaz Jafar Natiq (supra), Hon'ble Supreme Court has been pleased to hold that "Thus keeping in view the law laid down in

the case of Zafar Iqbal v. Muhammad Anwar and others (2009 SCMR 1488) ordaining that where a case falls within non-prohibitory clause the concession of granting bail must be favourably considered and should only be declined in exceptional cases". No exceptional circumstances are found in this case. Therefore, prima facie case of applicant/accused Akhtar Ali requires further enquiry entitling him to be released on bail. Resultantly, bail is granted to applicant/accused Akhtar Ali subject to his furnishing solvent surety in the sum of Rs. 200,000/-(Two lacs) with PR bond in the like amount to the satisfaction of the trial court.

Needless to say that observations made hereinabove are tentative in nature. The trial court shall not be influenced by such observations while deciding the case on merits.

JUDGE