

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Crl. B.A. No. S- 541 of 2019**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
--------------------	--------------------------------

For hearing of bail application.

Mr. Hamid Ali Memon Advocate along with applicant.  
Mr. Abdul Rehman Kolachi, Deputy P.G a/w complainant.

Date of Hearing: **06.12.2019.**

Date of Order: **16-12-2019**

**ORDER**

Applicant/accused Nadeem Ahmed Abro seeks pre-arrest bail in Crime No. 160 of 2019, registered at P.S, A-section, Khairpur for offence under Section 489-F PPC.

2. Briefly, the facts of the prosecution case are that on 29.09.2019 complainant Abdul Fattah Abro lodged abovementioned FIR alleging therein that he deals with the property business and one Nadeem Ahmed Abro was working as broker, who was liable to pay the outstanding amount to the complainant, for which Nadeem Ahmed issued cheque, which was not cleared, as such he lodged an FIR bearing Crime No. 329 of 2018 under Sections 489-F, 506/2, 34 PPC against said Nadeem Ahmed and others, which was under proceeding in Court, however, Nadeem Ahmed agreed to pay the said amount. Thereafter,

complainant in company of witnesses, namely, Zameer Hussain and Sadaqat Ali went to Gharib Nawaz Hotel, where accused Nadeem Abro came. An amount of Rs. 500,000/- was outstanding against Nadeem Ahmed, who issued one cheque to the complainant bearing No. AU-0028061 of account No. 5667-7 amounting to 250,000 of dated 07.05.2018 to be drawn at National Bank of Pakistan main branch Khairpur, however, on presentation of said cheque, it was dishonored, hence complainant registered Crime No. 109 of 2018 under Section 489-F PPC, which is also pending adjudication before the competent Court of law. The accused also issued another cheque No. AV-0028060 amounting to rupees 2,50,000/- on dated 07.08.2019 to be drawn at National Bank main branch Khairpur to the complainant, however, on presentation of said cheque, it was dishonored by JS Bank Khairpur on 09.08.2019 and such Memo was issued showing insufficient balance in the account. Complainant informed such reality to accused Nadeem Ahmed Abro and demanded money, but he did not pay the same. After obtaining order for registration of FIR from learned Justice of Peace, complainant appeared at P.S and lodged FIR as referred to above. After usual investigation, Challan was submitted against the accused.

3. Applicant applied for pre-arrest bail before learned Additional Sessions Judge-IV, Khairpur. The concession of interim pre-arrest bail

was granted to the applicant, but the same was recalled by learned Additional Sessions Judge-IV, Khairpur vide order dated 08.10.2019.

4. Learned advocate for applicant mainly contended that the applicant is innocent and has falsely been implicated in this case due to mala fide intentions and ulterior motives; that the incident took place on 09.08.2019, whereas, order for registration of FIR was passed by learned Justice of Peace on 16.09.2019, but the FIR was lodged after delay of 13-days on 29.09.2019, for which no plausible explanation has been furnished by the complainant; that in fact the applicant was broker of complainant and the dispute arose between them over settlement of accounts, as the complainant was not ready to settle the accounts with the applicant; that the leaves of the cheques of the applicant have been managed by the complainant as the applicant was broker of complainant, who was having leaves of cheques of the applicant; that the offence with which the applicant is charged does not fall within prohibitory clause of section 497 CrPC; that the Challan has been submitted and the applicant is no more required for investigation purpose; that the applicant has not misused the concession bail as he is regularly attending the trial Court as well as this Court after grant of interim pre-arrest bail by this Court. 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 Abu Bakar v. The State and others (2019 PCr.LJ Note 20).**

5. Learned Deputy P.G for the State along with complainant opposed the confirmation of interim pre-arrest bail earlier granted to the applicant by this Court on the ground that the applicant dishonestly issued the cheque which was dishonoured.

6. I have heard learned counsel for the applicant as well as learned DPG for the State and gone through the material available on record. I am inclined to confirm interim pre-arrest bail already granted to the applicant by this Court for the reasons that there is inordinate delay of 13-days in lodgement of FIR, for which no plausible explanation has been set-forth by complainant, as such false implication of applicant after due deliberation and consultation cannot be ruled out. Moreover, perusal of record reflects that the complainant has admitted that the applicant was his broker, as such the contention of learned counsel for the applicant that the leaves of the cheques of the applicant were managed by the complainant, carries weight and same requires evidence. Moreover, the offence with which the applicant is charged does not fall within the prohibitory clause of Section 497 Cr.P.C. Furthermore, admittedly there is no complaint with regard to misuse of concession of interim bail by the applicant as he is attending the trial

court regularly. Besides, investigation has been completed and Challan has been submitted, as such applicant is no more required for further investigation.

7. 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.

8. In view of above facts and circumstances of the case, the instant bail application No.S- 541 of 2019 stands allowed and the interim pre-arrest bail already granted to the applicant Nadeem Ahmed Abro by this Court vide order dated 16.10.2019 is hereby confirmed on same terms and conditions.

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

**JUDGE**

