

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

Cr. Bail Application No.S-1020 of 2016.

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>13.09.2017.</u>	For hearing.
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Mr. Farhad Ali Abro, Advocate alongwith applicant.
Mr. Shahid Ahmed Shaikh, D.P.G for the State.
Mr. Ali Akbar Lakho, Advocate for the complainant.

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ABDUL MAALIK GADDI,J- Applicant/accused is present on interim pre-arrest bail granted to him by this Court vide order dated 01.12.2016. Today this bail application is fixed for confirmation or otherwise.

2. The allegation against the applicant/accused is that on 02.12.2015 the accused has given a cheque of Rs. 200,000/- as outstanding against him to the complainant and on its presentation in Habib Bank Limited Market Road, Branch, Hyderabad, the same was dishonoured.

3. It is stated by the learned counsel for applicant that the applicant is innocent and has been falsely implicated in the case by the complainant with malafide intention. He also argued that subject cheque, which is stated to be bounced/dishonoured is not in the name of the complainant, but the accused had given the said cheque to one Muhammad Haroon from whom the accused had business transaction, but the above said Muhammad Haroon had expired and the complainant purchased the said cheque of Rs.200,000/- from brother of the said Muhammad Haroon. He further submitted that complainant with malafide intention filed the present F.I.R. against the applicant after the delay of nine days, for which, no explanation has been furnished, as such, according to him, false implication of the applicant cannot be ruled out, therefore, under the aforesaid facts and circumstances, he has prayed for confirmation of interim bail.

4. Learned D.P.G. assisted by learned counsel for the complainant has opposed this bail application on the ground that subject cheque as mentioned

in the F.I.R. given by the applicant to the complainant and the same was dishonoured, therefore, according to them, the applicant/accused is involved in a case of cheating, hence he is not entitled for confirmation of bail.

5. I have given my anxious thoughts to the contention raised at the bar and have gone through the police papers so available before me.

6. It is an admitted fact that the alleged incident took place on 2.12.2015, but the F.I.R. was registered on 11.12.2015 after the delay of nine days, for which, no satisfactory explanation has been furnished, as such, on this score alone false implication of the accused in this case with due deliberation cannot be ruled out. From the record, it appears that there is dispute involved in this F.I.R. is of civil nature and it is yet to be determined at the time of trial whether the applicant/accused has given the subject cheque to the complainant party or otherwise. It is also an admitted fact that in this case, investigation has been completed and challan against the applicant/accused has already been submitted before the trial Court. This accused is no more required for further investigation. It appears from the record that this applicant is attending the Court regularly. The alleged offence does not fall within prohibitory clause of section 497, Cr.P.C and the punishment provided for such offence is three years. The whole case of the prosecution is based upon documentary evidence, which is in possession of the prosecution, therefore, there is no question does arise for tampering the same by the accused party.

7. Keeping in view the above facts and circumstances of the case, I am of the considered opinion that the punishment provided for such offence is for three years or fine, therefore, adequate punishment in the shape of fine is also available in the provision, even otherwise, the punishment does not come within the ambit of prohibitory clause of section 497, Cr.P.C, therefore, the applicant has succeeded to make out a case for confirmation of bail at this stage. I, accordingly confirm the interim order already extended in favour of the applicant on the same terms and conditions with direction to the applicant to appear before the trial Court and face the trial with further direction to the trial Court that no unnecessarily adjournment shall be granted to either side.

8. Before parting with this order, I would like to make it clear that the observations made herein above are tentative in nature and shall not affect the merits of the case.

The bail application stands disposed of in the above terms.

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JUDGE.