

## IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln. No. 480 of 2017.

Danish Iqbal

Versus

The State

Date of hearing	06.06.2017
Date of order	06.06.2017
The applicant	Danish Iqbal Through Mr. G.N. Qureshi, Advocate
The Complainant	Mushtaque Ahmed Through Mr. Moula Bux Bhutto, advocate
Respondent	The State Through Mr. Zafar Ahmed Khan, Learned Additional Prosecutor General.

**ORDER**

**Mohammad Karim Khan Agha, J.** By this order I propose to dispose of the bail application moved by the applicant Danish Iqbal (the applicant), who has been charged with offences under Section 489-F and 420 P.P.C under crime No.80/2016 lodged at Police Station Gulshan-e-Iqbal on 09-11-2015.

2. The brief facts of the case as per F.I.R. are that the complainant had given Rs.58,10,000/- as loan to the applicant/accused for business purpose and when he demanded back his amount the applicant/accused avoided on one pretext or the other to repay the same. Thereafter applicant/accused issued

cheque No.88876152, amounting to Rs. 26,60,000/- of Habib Metro Politian Bank, Khayaban-e-Tanzim Branch and another cheque No.0397587, amounting to Rs.11,50,000/- of Meezan Bank, Bahadurabad Branch. The complainant presented the said cheques in his account but the same was not encashed and bounced due to insufficient balance in the account. Under these circumstances the complainant finally registered the F.I.R. in respect of the aforesaid action of the applicant under Section 489-F and 420 P.P.C.

3. After usual investigation, the challan was filed and the matter is now proceeding before the trial court.

4. Parties heard. In essence the applicant argued that the applicant be granted post arrest bail whilst both the complainant and the State argued that the application for post arrest bail should be dismissed based on numerous contentions.

5. I have considered the arguments of the learned counsel for the applicant, complainant and the State, perused the record and considered the relevant case law.

6. In essence the case revolves around the bouncing of two cheques of a combined amount of approximately 37 lacs which attracted S.489 (F) PPC for which the applicant is being tried.

7. I am of the considered view that the applicant should be granted post arrest bail for the following reasons; that this Hon'ble Court in Cr.Bail Appln No.1753/2016 vide order dated 20-03-

2017 has already granted bail to the applicant in an associated case for the same offense arising out of the same transaction but registered under a different FIR so in my view the rule of consistency is largely applicable; that no evidence has come on record that the applicant has been convicted for a similar offense and as such he cannot at this stage be considered as a habitual offender; that he has been in jail for a period of 11 months and the maximum sentence under S.489(F) is 3 years; since the trial is in progress the applicant is no longer required for investigation; that the offense does not fall within the prohibitory clause and thus as a rule in such cases as laid down in the case of **Tariq Bashir V State** (1995 SCMR 34) the grant of bail is a right unless exceptional circumstances exist and in this case in my view exceptional circumstances are lacking.

8. Accordingly, based on the particular facts and circumstances of this case, the applicant is granted post arrest bail in the above case subject to furnishing solvent surety in the sum of RS 200,000 (Rupees two lacs only) and PR bond in the like amount to the satisfaction of the <sup>Nazir</sup> of this Court

Dated: 06-06-2017

Abdul Salam/PA