

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

Cr. B.A. No. S- 1117 of 2017

DATED	ORDER WITH SIGNATURE OF JUDGE
07.02.2018	

For orders on office objection
For hearing

Mr. Mazhar Ali Leghari, advocate along with applicant.
Mr. Shahid Ahmed Shaikh, DPG

OMAR SIAL, J.- Applicant Ghulam Murtaza has sought post -arrest bail in Crime No. 80 of 2017 registered at Perumal police station district Sanghar under Section 489-F P.P.C. Earlier, his pre-arrest bail was turned down by the learned 1st Additional Sessions Judge, Sanghar on 11.12.2017.

2. The story narrated in the abovementioned FIR lodged by complainant Sahib Dino on 2.12.2017 is that he owns and operates a shop that sells fertilizer, seeds and pesticides. In 2016 during the cotton season accused Ghulam Murtaza (applicant) purchased fertilizer and pesticides from his shop and as sale consideration gave him a cheque of Rs.136,000 which on presentation before the bank counter was dishonoured.

3. I have heard the learned counsel for the Applicant, and learned DPG. The complainant remained absent despite notice. My observations are as follows.

- i. One of the basic requirements of an act to be an offence u/s 489-F P.P.C. is that the cheque which is dishonoured was given dishonestly to fulfil an obligation or for the repayment of a loan. Upon a query from learned D.P.G whether there was any preliminary evidence that a sale transaction as alleged by the complainant is on record, he very honestly and frankly conceded that there was none.
- ii. It appears that there is a report regarding the commission of a non-cognizable offence bearing number 521 dated 29-6-2016 lodged by the Applicant with regards to, inter alia, a lost cheque. Whether or not this is true will have to be determined after trial, however, at this stage malafide on the part of the police and the complainant cannot be conclusively ruled out.

- iii. An offence u/s 489-F P.P.C. carries a potential sentence of 3 years and thus falls within the non-prohibitory clause of section 497 Cr.P.C.

4. For the above reasons, the interim pre-arrest bail already granted to applicant on 15.12.2017 is confirmed on the same terms and conditions. The Applicant is however directed to attend the trial regularly and cooperate fully with the investigation officer.

JUDGE

karar_hussain /PS*