

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Appln. No.S-551 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
<i>FOR HEARING.</i>	

28.08.2017.

Mr. Aijaz Shaikh, Advocate for applicant.
Mr. Shahid Ahmed Shaikh, D.P.G
None present for the complainant.

ORDER

ABDUL MALIK GADDI, J:- Having remained un-successful in obtaining his release on bail from the Trial Court in Crime No.35 of 2015 registered under Section 489-F PPC at Police Station Market, Hyderabad. Now the applicant/accused *Shahid Hussain S/o Rasool Bux* is seeking his release on bail through the instant bail application.

2. The allegations against the applicant/accused are that he purchased Survey No.398, 399 Deh Mirza Pur Tappo Shah Bukhari, admeasuring 02 acres 23 Ghuntas, situated at Mirza Pur Shah Bukhari in the sum of Rs.2,90,00,000/- and in lieu of said amount, he issued four cheques bearing No.28556634 amounting to Rs.3,50,000/-, cheque No.28556635 amounting to Rs.3,50,000/-, cheque No.14124916 amounting to Rs.10,00,000/- and cheque No.14124916 amounting to Rs.10,00,000/- of Bank Al-Falah, Market Branch, Hyderabad, and the said cheques were dishonored on 15.05.2014 and such memorandums were issued.

3. It is, *inter alia*, contended by the learned Counsel that the applicant/accused is innocent and has been falsely implicated in the present crime. He further contended that there is civil dispute in between the parties, which is pending adjudication but the complainant has converted the civil

dispute into criminal litigation by registering false FIRs. As per learned Counsel, there was no outstanding amount against the applicant/accused as he had already paid the entire amount and when the applicant/accused demanded his cheques, the complainant kept him on false hopes and then misused the same in order to put pressure upon him. Learned Counsel also submits that there is delay in registration of FIR without plausible explanation and the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C. Lastly, he has prayed for grant of bail by relying upon the cases reported as *2007 YLR 1120 Lahore*, *2007 YLR 1280 Lahore*, *2013 P.Cr.L.J 1756 Lahore*, *P.Cr.L.J 1591*, *2011 SCMR 1708* and *2009 SCMR 1488*.

4. Learned Deputy Prosecutor General has opposed the bail application by contending that the name of the applicant/accused transpires in the FIR and in order to cheat, issued four cheques dishonestly, which were dishonored on presentation and such memorandums were issued. He further contended that the applicant/accused is habitual to issue dishonored cheques as so many cases have been registered against him at different Police Stations, therefore, he is not entitled for any relief.

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

6. It is an admitted position that the name of the present applicant/accused appears in the FIR and that there is civil dispute between the parties and a suit bearing F.C. Suit No.563 of 2017 is pending adjudication before the 3rd Senior Civil Judge, Hyderabad, which was filed by the applicant/accused against the complainant party. It also appears that there is civil dispute between the parties with regard to agricultural land and nothing is available on record to show that the present applicant/accused is previously convicted or he is desperate,

dangerous and hardened criminal. The challan in this case has already been submitted by the Police before the competent Court of Law and the applicant/accused is behind the bars since his arrest, the applicant/accused is no more required for further investigation by the Police, therefore, in view of aforementioned facts I am of the view that the case of the present applicant/accused requires further inquiry.

7. In addition to above facts of the case, I am of the considered opinion that the punishment provided for such offence is 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/accused has succeeded to make out a case for grant of bail. Following with the case law submitted by the learned Counsel, the applicant/accused *Shahid Hussain S/o Rasool Bux* is admitted on bail subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Lacs) and P.R Bond in the like amount to the satisfaction of the Trial Court.

8. Needless to mention that the observations made in this bail order are tentative in nature and shall not in any way affect the merits of the case at the trial.

Bail application stands disposed of.

JUDGE

Shahid