

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.1602 of 2018

Date	Order with signature of Judge
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For hearing of bail application.

19.02.2019

Mr. Waqar Alam Abbasi, Advocate for the applicant.
Ms. Amna Ansari, D.P.G.

NAZAR AKBAR, J. The applicant/accused is facing trial in Crime No.239/2018 under Section 489-F/506 PPC registered at P.S. Gulshan-e-Maymar, Karachi. The applicant after failing to obtain bail from the Court of X-Additional Sessions Judge, West Karachi has preferred this bail application.

2. To be very precise, the facts of the case as spelt out from the FIR are that complaint Ms. Farah Abdul Jabbar is a household lady and for the purpose of investment in property gave amount of Rs.20,00,000/- to one Waqas Memon son of Yousuf Memon (the present applicant) in the month of June, 2018. After passing of time he did not give any document of plot to her and when the complainant demanded to pay back her amount, the applicant issued one cheque amounting to Rs.500,000/- which was bounced on presentation due to insufficient balance, therefore, the complainant lodged FIR against him.

3. Learned counsel for the applicant contended that there is a civil dispute between the parties and the complaint wants to change the nature of dispute, therefore, lodged the FIR. He argued that there is a delay two months in lodging of FIR and no plausible reason has been assigned by the complainant. He lastly prayed for grant of bail to the applicant.

4. Learned DPG has opposed the grant of bail to the applicant / accused.

5. The narration of the facts indicates that there has been some business relationship between the parties, the complainant and the accused. Offence under Section 489-F is punishable only by three years and does not fall within the prohibitory clause of Section 497 Cr.P.C. Besides, there is delay of two months in lodging the FIR and no plausible explanation has been given by the complainant in the FIR. In the case of Khalil Ahmed Soomro and others vs. The State reported in **PLD 2017 Supreme Court 730** Hon'ble Supreme Court in para-4 of the judgment has observed as under:-

4. *On merits we have found that all offences of the above nature are punishable by way of imprisonment which do not fall within the prohibitory part of section 497, Cr.P.C and when the petitioners are entitled to post arrest bail thus, their prayer for pre-arrest bail, if declined, would be a matter of technicality alone while on the other hand they are likely to be humiliated and disgraced due to arrest at the hands of the local police.*

6. Keeping in view the facts and circumstances of the case, Applicant/ accused Waqas Yousuf s/o Yousuf Ishaq is admitted to bail, subject to furnishing solvent surety equivalent to the amount mentioned in the cheque given by the applicant to the complainant i.e the sum of **Rs.500,000/-** (Rupees Five Lacs only), and P.R bond in the like amount to the satisfaction of trial Court.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence trial Court while deciding the case of the applicant/accused.

JUDGE