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ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 460 of 2016.

Date of hearing 11.08.2017.	Order with signature of Judge
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Miss. Nisho Fatima Virkh, Advocate for applicant.
Mr. Nisar Ahmed G. Abro, Advocate for complainant.
Mr. Sardar Ali Rizvi, D.P.G.

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Omar Sial, J: The applicant has sought pre-arrest bail in crime No.123 of 2015, registered under Section 489-F P.P.C at P.S Bakrani. His earlier bail application filed before the learned Sessions Court, Larkana was turned down vide order dated 02.052016.

Brief facts of the case are that on 26-12-2015 one Najamuddin Khuharo lodged a complaint at P.S. Bakrani stating therein that he had purchased land from the applicant for a sum of Rs.800,000. Even though the complainant paid the applicant the entire amount, the applicant did not transfer the land in his name and instead after some time told the complainant that he would return the money to him. On 5-10-2015, the applicant gave the complainant a cheque bearing number 00227775 for an amount of Rs.360,000 drawn on the Dokri Branch of the National Bank of Pakistan. The cheque was dishonored by the Bank. Hence this case.

I have heard the learned counsel for the applicant as well as the complainant and the learned D.P.G. I have also examined the available record. My observations are as follows.

One of the ingredients for an offence to fall under Section 489-F P.P.C is that the cheque dishonored is towards the repayment of a loan or fulfillment of an obligation. Both, the learned counsel for the complainant and the learned DPG, admitted that there is nothing on record to even prima-facie show that this condition of Section 489-F P.P.C has been satisfied. In-fact, the memo of the Bank that dishonored the cheque was also not made available to this Court. In these

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circumstances, whether the provisions of Section 489-F P.P.C stand attracted to the allegations leveled by the complainant on the applicant or not requires further probe. Reference may be made to case of *Mian Muhammad Akram v. The State* (2014 SCMR 1369).

The case of the applicant falls within the ambit of Section 497 (2) Cr.P.C and thus one of further enquiry.

Above are the reasons for the short order of 11.08.2017; in terms of which the interim pre-arrest bail granted to the applicant on 26.09.2016 was confirmed on the same terms and conditions.

  
JUDGE 16/8/17

Ansan/\*

Disposed of Matter

- ① For Orders on M.A No. 1073/18 (U/A)
- ② For Orders on M.A No. 1074/18 (Sb/A)

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