

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

Cr. B.A. No.S-95 of 2015.

DATE

ORDER WITH SIGNATURE OF JUDGE

For hearing.

22.09.2015.

Mr. Parkash Kumar, Advocate for applicants.

Applicants are present on interim pre-arrest bail.

Mr. Shahid Ahmed Shaikh, A.P.G.

Syed Jawaid I. Bukhari, Advocate for the complainant.

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Applicants are involved in Crime 95/2014, registered with Police Station City Hyderabad, under sections 489-F, 420 and 34 P.P.C.

2. Facts of the case in brief, are that applicants Muhammad Rafique and Shafique Ahmed got Qasim Market on lease in an auction in the sum of Rs.35,00,000/- per month from the Cantonment Board, Hyderabad and as such a contract was reduced in writing. Applicant Tanveer Ahmed, son of applicant Muhammad Rafique, was also their partner. Thereafter, 08 cheques for total amount of Rs.1,20,00,000/- were issued by the applicants to fulfill their obligations, however, the cheques, on presentation, were dishonoured. Therefore, the complainant lodged F.I.R.

3. Learned counsel for the applicants submits that the applicants have falsely been implicated in the present case with malafide intention and ulterior motive; that the applicants have not committed the alleged offence; that the alleged offence does not fall within the prohibitory clause, therefore, the applicants are entitled for confirmation of interim pre-arrest bail already granted to them.

4. Learned counsel for the complainant and learned A.P.G. have opposed the bail application.

5. I have heard the parties counsel and perused the record carefully. For the sake of convenience, section 489-F PPC is reproduced as under:-

“[489-F. Dishonestly issuing a cheque.---Whoever dishonestly issues a cheque towards re-payment of a loan or fulfillment of an obligation which is dishonoured on presentation, shall be punishable with imprisonment which may extend to three years, or with fine, or with both, unless he can establish, for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be honoured and that the bank was at fault in not honouring the cheque.]

The alleged offence does not fall within the prohibitory clause of section 497 Cr.P.C; that it is yet to be seen at trial whether the applicants have committed the alleged offence or not, therefore the case of the applicants requires further inquiry as envisaged under section 497(2) Cr.P.C.

6. In view of above, the interim pre-arrest bail already granted to the applicants is hereby confirmed, however, subject to deposit of security in the sum of Rs.1,10,00,000/- (Rupees Eleven Million) with the Additional Registrar of this Court within a period of fifteen days from today. In case, such security is not deposited within the stipulated period, the interim pre-arrest bail, already granted to the applicants shall be deemed to have recalled and the bail application shall also be deemed to have dismissed.

JUDGE

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