

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT PESHAWAR  
JUDICIAL DEPARTMENT

**Cr.Misc./BA. No. 1044-P/2017.**

*Muhammad Ishaq vs. The State*

JUDGMENT

Date of hearing: 23.6.2017.

Petitioner: (M.Ishaq) by Mr. Daris Khan, advocate.

State by Mian Arshad Ahmad Jan, AAG.

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**SHAKEEL AHMAD, J.** - The petitioner has been arrested in case FIR No.294 dated 14.4.2017 registered under Section 489-F PPC at Police Station, Shaheed Gulfat Hussain, Peshawar for dishonour of thirty cheque amounting to Rs. 24,00,000/-. He was arrested in the present case on 19.4.2017.

2. Arguments heard and record perused.

3. The learned counsel for the accused/petitioner contends that the offence does not fall within the ambit of prohibitory clause of section 497 Cr.P.C. and that he is behind the bar since 14.4.2017, therefore, he is entitled for the concession of bail. The learned Additional Advocate General appearing on behalf of the State assisted by the learned counsel for the complainant contended that the offence in which the petitioner is charged is non-bailable and that the

accused/petitioner is a habitual offender, therefore, does not deserve the concession of bail.

4. Perusal of the record reveals that the maximum punishment provided under section 489-F PPC is three years or with fine or with both, which does not fall within the prohibition contained in section 497 Cr.P.C. when the offence is punishable with imprisonment or with fine or with both, the accused/petitioner is entitled to be released on bail because, if at the conclusion of the trial, he is only sentenced with fine, the period as under trial prisoner due to refusal of bail shall amount to a case of double jeopardy, thus, keeping in view the law laid down in case titled **“Zafar Iqbal vs. Anwar and others” (2009 SCMR-1488)** ordaining that where a case falls outside the prohibitory clause of section 497 Cr.P.C. the concession of granting bail must be favourably considered and should only be declined in exceptional cases.

5. For the aforesaid reasons, this petition is accepted and the accused/petitioner is admitted to bail provided he furnishes bail bonds to the tune of Rs.3,00,000/- (Rupees three lac) with two sureties each in the like amount to the satisfaction of the learned Illaqa/Judicial Magistrate concerned, who shall ensure that the sureties must be local, reliable and men of means.

**J U D G E**

Announced.

Dated: 23.06.2017.

\*M.Iqbal\*