

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

CrI. Bail Application No.S-170 of 2025
(*Ghulam Ali soomro Vs. The State*)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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For order on Office objection

For hearing of bail application.

ORDER.

16-05-2025.

Mr. Noor Hassan Malik, Advocate for applicant.

Mr. Nazeer Ahmed Sahito, Advocate for complainant, along with
Complainant

Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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Ali Haider 'Ada',J:-

Through the instant application, the applicant/accused Ghulam Ali, son of Ghulam Hussain, by caste Soomro, seeks pre-arrest bail in Crime No. 03 of 2025, registered at Police Station Hingorja, under Section 489-F PPC. The FIR was lodged by the complainant, Sajid Shabbir. Prior to approaching this Court, the applicant had filed a pre-arrest bail application before the learned Sessions Judge, Khairpur, which was entrusted to the learned Additional Sessions Judge, Gambat. However, the same was dismissed vide order dated 27.02.2025. Aggrieved thereby, the applicant has preferred the present bail application.

2. Briefly, the applicant is the brother-in-law of the complainant and is employed with the Sui Gas Company. It is alleged that the applicant, claiming to have good relations with senior officials, offered to arrange a job for the complainant in exchange for a sum of Rs. 3,000,000/-. Upon consultation, the complainant paid the said amount to the applicant on 05.01.2024, in the presence of witnesses. The amount belonged to the complainant's father namely Ghulam Shabbir and represented his pensionary benefits following retirement. After the passage of time, when no job was arranged, the applicant assured the

complainant that the amount would be returned. In this regard, the applicant issued a cheque bearing No. 10092159 for Rs. 3,000,000/-, drawn on his account maintained at Bank Al Habib Limited, Hingorja Branch, dated 06.01.2025. However, the cheque was dishonored upon presentation on 08.01.2025. Consequently, after the applicant failed to make the payment despite repeated requests, the complainant lodged FIR No. 03 of 2025 at Police Station Hingorja on 09.01.2025 under Section 489-F PPC and later on the challan was submitted.

3. Learned counsel for the applicant/accused submits that the applicant has been falsely implicated in the present case due to a family dispute. He contends that the sister of the complainant, Mst. Husna Jan, was the wedded wife of the applicant, whom the applicant divorced on 06.01.2025. A copy of the divorce deed has been placed on record through a statement. It is further submitted that after the registration of the FIR, Mst. Husna filed a Family Suit for the recovery of dowry articles against the applicant on 14-01-2025, wherein she stated that she had been expelled from the house of the applicant four months back, i.e., in September 2024. Learned counsel argues that if, for the sake of argument, it is believed that she was indeed ousted in September 2024, it defies logic that the applicant would have issued cheque to the complainant on October 2024, as claimed. This assertion casts serious doubt over the version of prosecution, especially given that the complainant's family allegedly had longstanding disputes with the applicant, well before the alleged transaction took place. Additionally, learned counsel contends that the cheque in question was misused by the applicant's ex-wife in collusion with the complainant, her brother. It is argued that the brother of the complainant is an employee at the same bank where the cheque was presented and he played a role in its dishonor, thereby manipulating the situation to falsely implicate the applicant. In support of his contentions, learned counsel has placed reliance on the case of *Muhammad Anwar vs. The State* (2024 SCMR 1567).

4. On the other hand, learned counsel for the complainant has opposed the confirmation of interim pre-arrest bail on the ground that a cognizable offence has been made out, and there is no mala fide intention on the part of the complainant to falsely implicate the applicant. It is contended that the cheque was issued by the applicant in lieu of a substantial amount of money and upon presentation, the said cheques were dishonored. Hence, the applicant is not entitled to the extraordinary relief of pre-arrest bail. During the course of arguments, the learned counsel for the complainant candidly admitted that the brother of complainant namely Najid, is employed at the same bank where the cheque was presented; however, he holds non-influential position and had no role in the dishonor of the cheque. With regard to the family dispute, it is asserted that such differences only arose as a consequence of the failed financial transaction. It is further submitted that the applicant divorced the complainant's sister solely to avoid liability in this matter. In support of his contentions, learned counsel placed reliance on the case of *Shakeel Ahmed Sahito vs. The State* (2022 MLD 1004).

5. Learned Additional Prosecutor General for the State did not support the arguments advanced by the learned counsel for the complainant. He contended that the scope of Section 489-F, PPC, is limited to the fulfillment of a legal obligation and repayment of an amount, if any such obligation exists. However, in the present matter, the alleged obligation appears to be uncertain and unsubstantiated. It was further submitted that in instant matter the essential ingredients of Section 489-F, PPC is missing, as the record reflects a pre-existing family dispute between the parties that predates the alleged transaction. On one hand, there is evidence of ongoing discord, and on the other, the applicant issued cheque. Such conflicting circumstances warrant further probe.

6. Heard learned counsel for the parties and perused the material available on record.

7. The record clearly reflects that there existed prior family relations between the parties, as the applicant/accused was the husband of Mst. Husna Jan, the sister of the complainant. The matrimonial relationship between them ended in divorce on 06.01.2025. Notably, the cheque in question bears the same date, while the complainant claims to have received the cheque earlier on 20.10.2024 and the alleged payment of Rs. 3,000,000/- was made on 05.01.2024. These inconsistencies in the timeline raise serious doubts about the genuineness of the transaction. Furthermore, in a family suit filed by Mst. Husna Jan on 14.01.2025, she admitted that she had been expelled from the matrimonial home four months prior, i.e., in September 2024. This admission further undermines the explanation of complainant's version, as it seems improbable that the applicant would issue a cheque in such a substantial amount to the complainant during a period of ongoing family discord and deteriorated relations. The sequence of events, surrounding circumstances and contradictory statements collectively cast doubt on the prosecution's case and there is possibility that the allegations may be an afterthought arising from strained family relations. It is a settled principle that the benefit of doubt, must be extended to the accused even at the bail stage. This view has been consistently affirmed by the Honourable Supreme Court in ***Salman Zahid v. The State through PG Sindh (2023 SCMR 1140)***, ***Fahad Hussain v. The State (2023 SCMR 364)***, ***Muhammad Eijaz v. The State (2022 SCMR 1271)***, and ***Muhammad Arshad v. The State (2022 SCMR 1555)***.

8. It also appears that the possibility of mala fide intention on the part of the complainant cannot be ruled out, particularly in view of the strained family relations between the parties. The record reflects that the applicant had divorced the complainant's sister, which led to further litigation in the form of a family suit. These circumstances suggest that the present criminal proceedings may have been initiated as a means to settle personal scores or to exert pressure on the applicant due to the underlying matrimonial discord. When criminal law is

invoked in the context of existing family disputes, especially where the timing and background of the complaint raise suspicion, the possibility of false implication with a view to avenge personal grievances cannot be entirely excluded. Such considerations further strengthen the applicant's case for grant of bail at this stage.

9. Furthermore, as per the contents of the FIR, the complainant himself stated that the amount in question did not belong to him personally, but rather to his father, namely Ghulam Shabbir, who had retired from the Education Department and had received the said sum as part of his pensionary benefits. However, a perusal of the challan reveals that the said Ghulam Shabbir, in whose, the amount is attributed, was neither cited as a witness nor was he examined by the Investigating Officer during the course of investigation. This omission is significant, as the presence and statement of the alleged real holder of the amount constitutes material evidence in the case. In the absence of such a crucial witness, the prosecution's case suffers from a serious evidentiary gap, which cannot be ignored at this stage. In this regard, reliance is placed in case of ***Mian Munfar Ali v. The State (1999 PCrLJ 369)***.

10. The scope of Section 489-F, PPC, mandates that the prosecution must establish that the cheque in question was issued in fulfillment of a legally enforceable obligation or to discharge an outstanding liability. However, in the present case, this essential element appears to be absent, as the very basis of the alleged transaction is clouded with uncertainty and lacks credible substantiation. Where the existence of a legitimate financial obligation is doubtful, the possibility of false implication cannot be excluded. In support of this view, reliance is placed on the judgment of the Honourable Supreme Court in ***Ali Anwar Paracha v. The State (2024 SCMR 1596)***, and the decision in ***Syed Muhammad Ali Shah v. The State (2024 MLD 1363)***.

11. The alleged offence under Section 489-F, PPC does not fall within the prohibitory clause of Section 497(1), Cr.P.C, as it carries a maximum punishment of three years. It is now a well-settled principle of law that when an offence does not fall within the prohibitory clause, the grant of bail is to be treated as a rule and its refusal as an exception, particularly where there are no exceptional circumstances warranting denial of such relief. In the present case, the investigation has been completed, and the challan has been submitted. There is no allegation that the applicant has misused the concession of interim pre-arrest bail or shown any conduct that would disentitle him to further relief. Additionally, the record does not reflect any threat to the complainant, tampering with evidence, or attempt to influence witnesses. The offence in question, being related to the issuance of a dishonored cheque, involves family dispute, that requires determination at trial. Reliance is placed on *Muhammad Nasir Shafique v. The State (2021 SCMR 2092)*, *Bilal Iqbal v. The State (2025 MLD 373)*, *Abdul Saboor v. The State (2022 SCMR 592)*, and *Riaz Jafar Natiq v. Muhammad Nadeem Dar and others (2011 SCMR 1708)*, wherein, reiterated that bail should not be withheld where the alleged offence is of a non-prohibitory nature.

12. In light of the foregoing discussion, it is evident that the applicant/accused has made out a case warranting further inquiry under sub-section (2) of Section 497, Cr.P.C. Accordingly, the instant pre-arrest bail application is allowed, and the interim bail granted to the applicant/accused vide order dated 04-03-2025 is hereby confirmed on the same terms and conditions.

J U D G E

Ihsan/PS.