

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 333/2025.

Applicant : Ali Hassan son of Yousuf,
Through Mr. Mazhar Ali Shaikh, Advocate

Respondent : The State through
Mr. Qamaruddin Nohri, A.P.G. Sindh assisted
by Mr. Raza Mustafa Advocate for complainant

Date of hearing : 16.04.2025

Date of order : 16.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant seeks pre-arrest bail in a case bearing crime No.09/2025, offence under Section 489-F PPC of P.S Baldia Town, Karachi. The pre-arrest bail plea of the applicant was declined by the learned Additional Sessions Judge-XII, Karachi South, vide order dated 23.01.2025.

2. According to the prosecution's case, the complainant, towards the end of July 2024, allegedly sold goods amounting to Rs. 1500,000/- to one Ali Hassan, of which a sum of Rs. 200,000/- was paid in cash, whereas the remaining Rs. 1300,000/- was paid through a cheque drawn on Bank Al-Habib Limited. Upon presentation of the said cheque, the same was dishonoured, compelling the complainant to lodge the present FIR.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the case. He submits that there exists no written agreement between the complainant and the applicant/accused reflecting any such transaction. It is further contended that the cheque in question bears visible overwriting on its date, casting serious doubt on the authenticity of the transaction and the case of the prosecution. He further submits that the FIR was registered with an unexplained delay of about three months, which in itself is suggestive of malafide intent. It is also argued that there was no pre-existing liability or contractual agreement which could establish a binding legal obligation upon the applicant; hence, the very foundation of Section 489-F PPC is lacking. On these grounds, the learned counsel prays for confirmation of interim pre-arrest bail earlier granted to the applicant.

4. Conversely, the learned APG representing the State, as well as learned counsel for the complainant, have opposed the grant of bail to the applicant. It is their contention that the cheque in question was issued by the applicant with dishonest intention and with full knowledge of insufficiency of funds, thereby attracting the mischief of Section 489-F PPC. It was further argued that the applicant was under a legal obligation to repay an amount of Rs. 300,000/- to the complainant, arising out of a verbal transaction between the parties. They prayed for dismissal of the instant application.

5. I have heard the learned counsel for the respective parties and perused the material available on record with their assistance.

6. The investigation officer has placed on record a forensic report regarding the cheque in question, which confirms that the date mentioned therein has been altered from "21-02-2022" to "21-08-2024", and that the amount has been tampered from "Rs. 300,000/-" to "Rs. 1,300,000/-". These confirmed alterations and tampering materially affect the veracity of the prosecution's version and lend support to the defense plea that the instrument may have been manipulated subsequent to its issuance. The admitted fact that the transaction was oral and unsupported by any written agreement, coupled with the unexplained delay of three months in lodging the FIR, creates further doubt at this stage regarding the prosecution's assertions. In addition, the existence of overwriting in the cheque raises a prima facie case of further inquiry within the contemplation of Section 497(2) Cr.P.C. The offense under Section 489-F PPC, being a non-prohibitory clause offense, calls for a lenient view in the matter of bail unless there are exceptional circumstances, which are lacking in the instant case.

7. In view of the foregoing, the applicant has succeeded in making out a case for confirmation of bail. Consequently, the interim pre-arrest bail granted to the applicant was confirmed vide short order dated 16.04.2025. These shall constitute the reasons for the said short order.

J U D G E