

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 139/2025

Applicant : Jawaid Iqbal Shirazi son of Hashmat Iqbal Shirazi
through Mr. Liaquat Ali Khan, Advocate

Respondent : The State
Through Mrs. Rahat Ehsan, Addl. P.G Sindh

Complainant : Muhammad Obaid Qureshi
Through Syed Saifullah Shah, advocate

Date of hearing : 23-04-2025

Date of order : 29-04-2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant Jawad Iqbal Shirazi, seeks pre-arrest bail in a case bearing Crime No. 544/2024, for offence under section 489-F PPC of P.S New Karachi, Karachi. Previously bail of applicant/accused was dismissed by the learned Additional Sessions Judge-VII /MCTC-II Karachi Central.

2. Brief facts of the case, as narrated in the FIR, are that the complainant Muhammad Obaid Qureshi, who deals in the sale and purchase of meat, supplied meat of eight cows to the applicant, valued at Rs.18,73,700/-, through a known source. The applicant issued three cheques, each of Rs.500,000/-, and assured to make payment of the remaining amount later. Upon presentation, two of the said cheques were dishonoured. It is alleged that despite demands, the applicant avoided payment, thereby compelling the complainant to lodge the FIR.

3. The learned counsel contended that the applicant is innocent and has been falsely implicated with mala fide intentions. It was submitted that the transaction between the parties was purely commercial and civil in nature, revolving around conditional sale of meat for export to Kuwait. The applicant's case is that the complainant had agreed that if the meat was rejected abroad due to inferior quality, the applicant would not be responsible for payment. The cheques, it was argued, were issued only as security, not for immediate encashment. Counsel further submitted that after the meat was rejected abroad, the applicant informed the complainant, and subsequently issued stop-payment instructions to his bank. It was argued that the dispute, being civil in nature, has been

maliciously given criminal colour, and that no offence under Section 489-F PPC is made out. Learned counsel emphasized that the applicant has no prior criminal record, the offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C., and that the case requires further inquiry under Section 497(2) Cr.P.C.

4. Conversely, learned APG for the State duly assisted by the learned counsel for the complainant opposed the bail application, contending that specific allegations have been levelled against the applicant regarding issuance and dishonouring of cheques. It was argued that once a cheque is dishonoured, ingredients of Section 489-F PPC stand attracted, and the civil nature of the underlying transaction does not absolve the accused from criminal liability. The learned APG asserted that sufficient material is available connecting the applicant with the commission of offence.

5. It appears from the record that the transaction between the parties stems from a commercial business deal involving sale and purchase of meat for export purposes. It has been argued, and supported by documentary material, that payment was to be made by the applicant only after confirmation that the meat was of exportable quality. The applicant's assertion that the cheques were issued only as security and not for immediate encashment finds some support from the agreement executed between the parties, albeit with some dispute about whether the complainant accepted the conditionality. It is, however, not disputed that the agreement bears the signatures of both parties.

6. In view of the facts and circumstances of the case, it appears that the cheque in question were issued by the applicant conditionally, and there is a clear dispute between the parties regarding the underlying liability, which requires determination after recording evidence at trial. It is settled law that where a cheque is issued merely as a security and not in immediate discharge of an obligation, the offence under Section 489-F PPC is not attracted unless dishonest intent at the time of issuance is proved. Reliance is placed on *Mian Allah Ditta v. The State* (2013 SCMR 51), *Malik Safdar Ali v. Syed Khalid Ali* (PLD 2012 Sindh 464), *Muhammad Juman v. The State* (2005 YLR 1785), *Abdul Saboor v. The State* (2022 SCMR 592), *Noman Khaliq v. The State* (2023 SCMR 2122), *Mazhar Iqbal v. The State* (2006 YLR 406), and *Muhammad Ashraf v. The State* (2021 P Cr. L J 586), wherein it has been consistently held that the dishonour of a security cheque without proof of dishonest issuance does not constitute

an offence under Section 489-F PPC, and such cases require further inquiry into the true nature of the transaction.

7. Prima facie, the liability of the applicant to pay the amount, and the question whether issuance of cheques was unconditional or subject to satisfactory export quality, are matters that require detailed evidence and cannot be conclusively determined at the bail stage. Whether the applicant had dishonest intent at the time of issuing the cheques is also a question that would require recording of evidence at trial.

8. Moreover, the act of issuing stop-payment instructions before presentation of cheques coupled with the business dispute over quality of goods indicates that the matter may predominantly be of civil nature. In such circumstances, without recording evidence, it would be premature to hold that a case under Section 489-F PPC is fully made out against the applicant. Furthermore, the alleged offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C., thus the rule of granting bail rather than its refusal is to be ordinarily followed.

9. In view of the above, the case of the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, the interim pre-arrest bail earlier granted to the applicant vide order dated 17.01.2025 is hereby confirmed on the same terms and conditions. The applicant shall continue to attend the trial Court on each and every date of hearing, and shall not misuse the concession of bail; in case of misuse, the trial Court would be at liberty to take appropriate action in accordance with law. Needless to mention, the observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE