

## IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

### Criminal Bail Application No. S-371 of 2025

Applicant : Lal Chand son of Hindu Raj,  
Through Mr. Kazi Manzoor Ahmed,  
Advocate.

Complainant : Through Mr. Azizullah Burriro,  
Advocate.

The State : Mr. Nazeer Ahmed Bhangwar, DPG.

Date of hearing : 18-07-2025

Date of order : 18.07.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – The applicant Lal Chand, seeks post-arrest bail in Crime No. 67/2025, registered under Section 489-F PPC at P.S. Radhan. The applicant's earlier pre-arrest bail was recalled by the learned II-Additional Sessions Judge, Mehar, on 25.06.2025, leading to his arrest. Subsequent bail applications were declined by the learned Judicial Magistrate, Mehar, vide order dated 28.06.2025, and by the learned I-Additional Sessions Judge, Mehar, on 03.07.2025.

**2.** As per FIR No. 67/2025, lodged by complainant Chander Lal Hindu on 14.06.2025, it is alleged that he owns an electric shop in Radhan Town and had a business of electricity goods with the applicant. An amount of Rs. 10,00,000/- was allegedly outstanding towards the applicant. The complainant states that on 01.02.2025, the applicant issued a cheque bearing No.00000184 of HBL for Rs.10,00,000/-. This cheque was presented for encashment on 12.02.2025 and was dishonoured with a memo. The FIR was lodged on the directions of the Honourable 2<sup>nd</sup> Additional Sessions Judge/Justice of Peace, Mehar.

3. The learned counsel contended that the applicant is innocent and has been falsely implicated in a case arising out of a disputed financial transaction. He highlighted an unexplained delay of four months in the lodgment of the FIR, which casts serious doubt on the prosecution's version. It was vehemently argued that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497(1) Cr.P.C., as the maximum punishment is only three years or fine or both. Therefore, in such cases, bail is the rule and refusal is an exception. In support of this contention, reliance was placed on various judgments, including PLD 2012 Sindh 464, 2023 P.Cr.L.J 114, 2025 YLR 711, 2022 SCMR 592, and 2021 P.Cr.L.J 497. Learned counsel further submitted that the complainant's allegation of a business of "electric goods" with the applicant is unsubstantiated, as no documentary evidence (such as agreements, receipts, or cash memos) has been produced to prove any such business transactions. Conversely, it was asserted that the applicant is primarily engaged in the rice mill business, taking rice mills on lease and being registered with the FBR as a Grain & Rice Broker since 2005 (FBR data provided). This stark contradiction raises serious doubts about the existence of the alleged liability. A crucial point raised was the applicant's claim that a dacoity was committed in his rice mill on 21<sup>st</sup> December, during which cash and unsigned cheque books were stolen (social media clips were produced). This, if true, provides an alternate explanation for the cheque's presence and seriously undermines the element of dishonest issuance. It was also pointed out that the complainant had earlier moved an application to the SSP Dadu alleging Rs.65 Lacs were outstanding, which differs significantly from the Rs.10 Lacs claimed in the present FIR, indicating malafide and ulterior motives on the part of the complainant to pressurize the applicant. It was emphasized that the prosecution case requires further inquiry as the alleged business transactions and the circumstances surrounding the issuance of the

cheque necessitate a deeper appreciation of evidence, which cannot be undertaken at the bail stage. The learned counsel argued that the criminal law is being misused as a tool for recovery of an alleged financial liability, which ought to be pursued through a civil suit for recovery. Finally, it was stated that the applicant has no prior criminal record, will not tamper with evidence, is no longer required for investigation (as interim challan has been submitted), and is ready to furnish solvent surety.

4. Conversely, the learned DPG for the State, along with the complainant vehemently opposed the grant of bail. They contended that the FIR explicitly names the applicant and alleges that he issued the dishonoured cheque, which constitutes a clear offence under Section 489-F PPC. It was argued that the dishonor of the cheque establishes a prima facie case against the applicant, and therefore, bail should not be granted.

5. It is a well-settled principle of law, reiterated by the Hon'ble Supreme Court in numerous judgments, including 2022 SCMR 592 (Abdul Saboor v. The State) and 2023 SCMR 2122 (Noman Khaliq Vs. The State & another), that Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. The maximum punishment for an offence under this section is three years, which means bail is a rule and refusal is an exception. A crucial aspect of Section 489-F PPC is the requirement of dishonest intent (mens rea) at the time of issuing the cheque. As held in PLD 2012 Sindh 464 (Malik Safdar Ali v. Syed Khalid Ali) and 2006 YLR 406 (Mazhar Iqbal v. The State), mere dishonour of a cheque is not sufficient to attract penal liability; the prosecution must establish that the cheque was issued dishonestly towards a legally enforceable obligation. In the present case, the applicant's assertion of no business of electricity goods with the complainant, coupled with the absence of any documentary evidence from the complainant to support such a business, creates a

strong arguable point against the element of an existing, legally enforceable obligation. The applicant's FBR registration as a rice broker further corroborates his claim of a different primary business.

6. Furthermore, the contention regarding the dacoity at the applicant's rice mill where unsigned cheque books were allegedly stolen, if proven, would seriously negate the element of dishonest issuance by the applicant. This point, along with the complainant's differing claims of outstanding amounts (Rs. 65 Lacs vs. Rs. 10 Lacs), clearly suggests malafide and ulterior motives to use the criminal process for debt recovery, a practice strongly deprecated by superior courts in cases like 2012 YLR 2780 (Muhammad Afzal v. The State). The unexplained delay of four months in lodging the FIR further adds to the doubts regarding the veracity of the prosecution's case. Such delay, without plausible explanation, often indicates an afterthought or an attempt to settle civil disputes through criminal means.

7. Given these circumstances, particularly the serious doubts about the underlying business transaction, the element of dishonest intent, and the possibility of misuse of criminal process for debt recovery, the case clearly falls within the ambit of "further inquiry" under Section 497(2) Cr.P.C. It is a well-established principle that disputed questions of fact requiring deeper appreciation of evidence are best left for the trial court, and bail should not be withheld in such scenarios.

8. In view of the facts and circumstances discussed above, particularly the fact that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C., the serious doubts about the dishonest intent and the underlying obligation, the unexplained delay in FIR, the lack of supporting documentary evidence from the complainant regarding the alleged business, and the clear indication of malafide on the part of the complainant to use criminal law for recovery of monetary dues, the applicant has succeeded in making out

a case for the grant of post-arrest bail. Consequently, the instant bail application is allowed. The applicant, Lal Chand is admitted to post-arrest bail, subject to furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand Only) with one surety in the like amount to the satisfaction of the learned Trial Court.

Let this order be communicated to the concerned quarters.

**J U D G E**

Asgar Altaf/P.A