

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2454 of 2025

Abdul Touheed son of Abdul Haq Sheikh..... Applicant/Accused

Versus

The State.....Respondent

Date of Hearing : 13.10.2025

Date of Order : 13.10.2025

For the Applicant : Mrs. Razia Danish, Advocate.

For the Complainant : Mr. Muhammad Ramzan, Advocate.

For the State : Mr. Muhammad Noonari, APG.

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ORDER

TASNEEM SULTANA, J: Through this bail application the applicant Abdul Touheed son of Abdul Haq Sheikh seeks post-arrest bail in Crime No. 408 of 2025 registered at Police Station Steel Town, Karachi, under Section 489-F, PPC. Earlier his bail was declined by the learned IInd Civil Judge & Judicial Magistrate, Malir, Karachi vide order dated 07.08.2025 and thereafter by the learned VIIth Additional Sessions Judge, Malir Karachi vide order dated 30.08.2025. Now the applicant approached this Court for post-arrest bail.

2. Brief facts of the prosecution case as narrated in the FIR are that the complainant, Hifaz Hussain son of Atta Hussain, alleged to have sold his house situated in Eido Village and one plot in Roman City to the present applicant for a total sale consideration of Rupees Twelve Million and Seven Hundred Thousand; that in consideration thereof the applicant issued two cheques drawn on Allied Bank Limited, Gulshan-e-Hadeed Branch; that one cheque bearing No. 2487691058 dated 25-04-2025, when presented for encashment, was dishonoured due to insufficient funds and discrepancy in signature; that the applicant failed to make payment despite repeated demands; and that consequently the complainant lodged the present FIR on 31-05-2025 after approval of SSP Malir Division.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that the alleged transaction is of civil nature arising out of property dealings; that the

cheques were issued as security during negotiations and not in discharge of any admitted liability; that no registered sale deed, payment receipt or document of transfer exists; that the affidavits filed by the complainant cannot substitute for a registered instrument of sale; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; that investigation has been completed and challan submitted; that the applicant's custody is no longer required; that in view of the above, the matter requires further inquiry; learned counsel has also relied upon following case law in support of her contention:-

- (i) **PLD 2017 SC 733** and
- (ii) **2022 SCMR 542.**

4. Conversely, learned Assistant Prosecutor General assisted by learned counsel for the complainant opposes the plea and submits that the applicant issued cheques of a substantial amount which were dishonoured on presentation; that the element of deception and dishonest intention is apparent from the applicant's conduct; that the affidavits and supporting material indicating existence of the transaction; that the offence involves considerable financial loss to the complainant and affects public confidence in commercial dealings; that such acts disturb financial discipline and must be dealt with strictly; hence, the applicant does not deserve the discretionary relief of bail; that the applicant has misused trust and seeks to avoid his lawful liability under the garb of a civil dispute. In support of his contentions learned counsel for the complainant has relied upon the case laws reported in **2022 SCMR 2040** and **2008 SCMR 807.**

5. Heard. Record perused.

6. It reflects from the record that the alleged transaction arises from the sale of two immovable properties, namely a house situated in Eidu Goth and a plot located in Roman City, between the parties. The complainant's claim is based upon a sale agreement dated 24-03-2024 and an Iqrar-nama dated 05-01-2025; however, no registered sale deed or document showing transfer of possession has been placed before the Court. The authenticity of these documents and the purpose for which the cheque(s) were issued can only be determined after recording of evidence at trial. At this stage, the

matter appears to be one of further inquiry within the meaning of Section 497(2), Cr.P.C.

7. The offence alleged under Section 489-F, PPC carries a maximum punishment of three years and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. The settled principle is that in such cases, grant of bail is a rule and refusal an exception. Reliance is placed on Shehzad v. The State (2023 SCMR 679) and Tariq Bashir and others v. The State (PLD 1995 SC 34). The Hon'ble Supreme Court has repeatedly held that bail is neither punitive nor preventive, as punishment begins only after conviction. If a person is mistakenly granted bail, such error can be corrected upon conviction, whereas wrongful pre-trial detention, if ultimately found unjustified, causes irreparable harm to liberty. Reliance is also placed upon the judgment in Nazir Ahmed alias Bharat v. The State and others (2022 SCMR 1467), wherein it was observed as under:

“Section 489-F of P.P.C. is not a provision which is intended by the legislature to be used for recovery of an alleged amount, rather for recovery of any amount, civil proceedings provide remedies, inter alia, under Order XXXVII of C.P.C.”

8. The FIR was lodged more than one month after the cheque was dishonoured, with no plausible explanation of such delay; such inaction, prima facie, raises doubt regarding the bona fides of the complainant. Investigation has been completed, challan has been submitted and all documentary material stands collected; that in such offences bail is to be granted as a rule where the matter carries civil attributes, calls for further inquiry within the meaning of Section 497(2) Cr.P.C.

9. For these reasons, the applicant Abdul Touheed son of Abdul Haq Sheikh is admitted to post-arrest bail in Crime No. 408 of 2025 under Section 489-F, PPC, registered at Police Station Steel Town, Karachi, subject to furnishing solvent surety in the sum of Rupees Two Hundred Thousand only and a P.R. bond in the like amount to the satisfaction of the trial Court.

10. The applicant shall attend the trial regularly and shall not misuse the concession of bail; any violation shall entail cancellation of bail according to law. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul