

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

*Criminal Bail Application No. S-1328 of 2025*  
*(Muhammad Osama Versus the State)*

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of Bail application

**25.11.2025**

Ms. Shazia Nazir Advocate, along with Applicant Muhammad Osama 42000-0658702-1.

Mr. Jahangir Awan Advocate for the Complainant

Mr. Shoaib Safar Ghumman, Assistant Prosecutor General

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*Ali Haider 'Ada'J:-* The applicant Muhammad Osama was granted interim pre-arrest bail by this Court vide order dated 22.05.2025 in FIR No. 246 of 2024, registered at Police Station Paposh Nagar for the offence punishable under Section 489-F PPC. Today, the matter is fixed for confirmation or otherwise. Prior to approaching this Court, the Applicant had moved an application before the learned District & Sessions Judge, Karachi-Central, which was entrusted to the learned 1st Additional Sessions Judge, Karachi-Central, who vide order dated 03.05.2025 declined pre-arrest bail to the present Applicant.

2. Briefly stated, the Complainant alleged that she is a working woman employed with NBP Funds and that she contracted marriage with one Muhammad Awais in the year 2019. It is alleged that after the marriage, Awais received an amount of Rs. 44,00,000/- from the Complainant, and that his brother, namely Muhammad Osama, the present Applicant also obtained an amount of Rs. 40,00,000/- for running his business. Upon demand for repayment, the Applicant allegedly issued one cheque, amounting to Rs. 40,00,000/-, was dishonoured as per the Bank Memorandum. Thereafter, the Complainant approached the concerned Police Station and lodged the FIR on 16.11.2024, whereas the dates of incident mentioned in the FIR from 27.08.2024 to 15.09.2024.

3. Learned counsel for the Applicant contends that the dispute arises out of matrimonial differences between the parties and due to such enmity, the Applicant has been falsely implicated. It is argued that the amount allegedly received was, in fact, deposited through part-payments into the account of the Complainant, and that the cheque was dishonoured only due to manipulation of the dates by the Complainant, rendering the cheque devoid of legal sanctity. It is further submitted that Khula has already been granted between Awais and the Complainant, and the instant FIR is the outcome of said family discord. He, therefore, prays for confirmation of interim bail.

4. Conversely, learned counsel for the Complainant submits that the receipt of the amount as well as issuance of the cheque is admitted by the Applicant, and any alleged deposit was made after issuance of the dishonoured cheque, having no legal effect. It is argued that a substantial outstanding amount is still payable by the Applicant; hence, he is not entitled to the concession of bail.

5. Learned State Counsel adopts the arguments of the Complainant's counsel and submits that the transaction of the amount and cheque has been fully corroborated; therefore, the Applicant does not deserve confirmation of bail.

6. Heard and perused the available record.

7. First and foremost, the family dispute between the parties is already reflected in the FIR itself. Even otherwise, the FIR does not disclose any specific details regarding the alleged monetary transactions. The Complainant has merely alleged that after the year 2019, she paid various amounts to the Applicant's side on different occasions; however, no exact dates, modes of payment, or particulars of the alleged handover of such substantial amounts have been mentioned. The entire alleged transaction is said to have occurred over a span of more than five years, and this unexplained delay and lack of specificity creates serious doubt regarding the prosecution's version. Support is drawn from the case of *Ch. Saeed Ahmed Khalil v. The State and others* (2023 SCMR 1712).

8. Furthermore, the cheque in question is admittedly dated 22.07.2024, whereas the FIR was lodged after an unexplained delay of more than three and a half months, i.e., in November 2024. No plausible explanation has been furnished by the Complainant for such a considerable delay in approaching the law enforcement authorities. This unexplained and inordinate delay in the lodgment of the FIR casts serious doubt upon the veracity of the prosecution's story and indicates possible afterthought and consultation. Guidance in this regard can be sought from the principles laid down by the Honourable Supreme Court in *Ali Anwar Paracha v. The State* (2024 SCMR 1596) and *Atif Ali v. The State* (2024 SCMR 2066).

9. It is also of considerable significance that the alleged offence under Section 489-F, P.P.C. does not fall within the ambit of the prohibitory clause contained in Section 497, Cr.P.C. The consistent jurisprudence of the Superior Courts is that where 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, which can only be justified upon the existence of extraordinary or exceptional circumstances. The rationale behind this settled principle is that in non-prohibitory clause offences, the law presumes that an accused should not be unnecessarily deprived of his liberty during the pendency of the trial, particularly when his guilt has yet to be determined. The Hon'ble Supreme Court of Pakistan, in *Noman Khaliq v. The State and another* (2023 SCMR 2122), has reaffirmed that in non-prohibitory offences, the accused is ordinarily entitled to the concession of bail unless the prosecution demonstrates circumstances of an exceptional nature warranting refusal.

10. Accordingly, the Applicant has succeeded in making out a case for confirmation of interim pre-arrest bail. Consequently, the interim bail earlier granted to him is hereby confirmed on the same terms and conditions already set out in the order dated 22.05.2025. However, it is clarified that the observations made herein are tentative in nature, strictly confined to the decision of this bail application. The learned trial Court shall not be influenced by any such observations and shall decide the case

strictly on the basis of evidence and material brought on record during trial.

11. In view of the above, the instant bail application stands disposed of accordingly.

*JUDGE*