

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.1225 of 2025**

Muhammad Ali son of Abdul Majeed Arbi..... Applicant/Accused

Versus

The State.....Respondent

*Date of Hearing* : 15.10.2025

*Date of Short Order* : 15.10.2025

For the Applicant : Mr. Muhammad Ramzan Tabassum,  
Advocate

For the Complainant : Mr. Riaz Hussain, Advocate.

For the State : Ms. Rahat Ahsan, Additional P.G

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### **ORDER**

**TASNEEM SULTANA, J:** Through this bail application the applicant Muhammad Ali son of Abdul Majeed Arbi seeks pre-arrest bail in Crime No. 468 of 2025 registered at Police Station Steel Town, Karachi, under Section 489-F, PPC. Earlier his bail was declined by the learned 4<sup>th</sup> Additional Sessions Judge, Malir Karachi vide order dated 07.05.2025. Now the applicant approached this Court for pre-arrest bail and interim pre-arrest bail was granted to them vide order dated 13.05.2025. The matter is fixed for confirmation or otherwise.

2. Brief facts of the prosecution case are that complainant Haiz Gul Muhammad son of Khair Muhammad sold plots located in various societies to Muhammad Ali S/o Abdul Majeed (the present applicant) in the month of December 2023. The complainant handed over all related documents and possession of the said plots to the applicant/accused, who, in return, received a total amount of Rs.30,650,000 from him. Muhammad Ali issued him 8 cheques in consideration of the said amount i.e cheque No A06366487, amounting to Rs.2,000,000/, dated 02.12.2024, cheque No.A06366488, amounting to Rs.2,400,000, dated 05 12.2024, cheque No A06366489, amounting to Rs.5,000,000/-, dated 10.12.2024, cheque No.A06366490, amounting to Rs.5,000,000/-, dated: 13.12.2024, cheque No.A06366491 amounting to Rs.5,000,000/-, dated: 16.12.2024, cheque No.A00366492, amounting to Rs.1,000,000/-, dated 19.12.2024, cheque No.A06366493, amounting to Rs.3,250,000/, dated 23.12.2024. The

complainant presented the above cheques for encashment in his bank account at Faysal Bank, Sumaira Chowk, Scheme-33, Karachi Branch, but all of them were dishonoured (bounced). Hence this FIR pursuant to order passed by learned IVth Additional Sessions Judge, Malir Karachi in CrI. Petition No.927 of 2025.

3. Learned counsel for the applicant contends that the applicant/accused is innocent and has been falsely implicated in the present crime; that the alleged transaction in the FIR stands from a purely commercial transaction between the complainant, his business partner Saifur Rehman and the applicant; that the applicant and partner of complainant Saifur Rehman were entered into more than 40 sale agreement with each other in respect of different properties in different dates, months, pertaining to the year 2023 to the extent of business purpose; that the agreements were duly executed and acted upon substantially, payments were exchanged between the parties, and the applicant in continuation of the said transactions issued certain cheques towards adjustment and settlement of business accounts; that the cheques were not issued dishonestly and fraudulently, but rather in good faith and within the course of ongoing business dealings, therefore, the element of mensrea which is ingredient of offence under Section 489-F PPC is conspicuously missing from the record; that the complainant and his partner Saifur Rehman, were jointly conducting real estate business with the applicant and due to subsequent disregarding delivery of plots, possession and adjustment of remaining payments, the complainant in collusion with the partner has converted civil liability into criminal prosecution; the delay in lodging of FIR coupled with existence of civil remedies clearly demonstrate malafide intents on the part of complainant to pressurize the applicant for recovery of money; that the applicant has also filed Civil Suit No.11/2023 before this Court for rendition of account as the applicant paid more amounts then the disputed amount shown in the present crime; that the cheques in question were issued as a security for adjustment of accounts and not with any dishonest intention; that the complainant filed a false summary Suit No.12/2025 against the applicant, wherein, leave to defend has already been granted and the applicant is contesting the proceedings of above summary suit as well as facing the criminal trial of present crime, therefore, the present crime calls for further inquiry and the interim pre-arrest bail granted to the applicant may be confirmed.

4. Conversely, the learned Assistant Prosecutor General Sindh assisted by the learned counsel for the complainant opposed the grant of bail and contended that the applicant issued the cheques knowingly, which were dishonoured due to insufficient funds; that he thereby cause loss and deception to the complainant; that the applicant has committed serious economic offence by defrauding the complainant of a considerable sum of money; that the ingredients of Section 489-F are fully attracted to the present case; that the conduct of the applicant throughout the transactions shows mensrea and fraudulent design, and he induced the complainant to abort with valuable consideration and thereafter willfully failed to honour his financial commitment; that the dishonour or cheque cannot be treated as mere civil breach rather it constitute criminal breach of trust squarely fallen within the ambit of Section 489-F PPC; that the offence effects the public confidence and commercial dealing involves moral attribute (triptitude), therefore, the interim pre-arrest bail granted to the applicant may be recalled.

5. Heard. Record perused.

6. It appears that the dispute between the parties arises out of business transaction concerning the sale and purchase of plots. The complainant alleged that certain cheques issued by the applicant towards the payments were dishonoured and on that basis, present case was registered under Section 489-F PPC. Prima-facie, the allegations indicate monetary dispute having a civil complexion, though the prosecution seeks attribute dishonest intention at the time of issuance of cheques. It further reflects that the transactions itself admitted by the parties and only controversy pertains to the manner of performance and the settlement of liability. Such allegation, on the face carry predominancy civil attribute. The essential ingredient of Section 489-F PPC, the presence of dishonesty at the time of issuance of cheque, however, the question of intention is a matter of trial and can only be determined after recording of evidence.

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. There is an inordinate delay in lodging of the FIR after the cheques were 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. In view of the above, by a short order dated 15.10.2025, the interim pre-arrest bail granted to the Muhammad Ali son of Abdul Majeed Arbi, vide order dated 13.05.2025 was confirmed on the same terms and conditions and these are the reasons for the same.

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