

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No. 2971 of 2024**

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*Date*

*Order with Signature of Judge*

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*For hearing of Bail Application*

**26.02.2025**

Mr. Asif Iqbal Syed, Advocate along with Applicant (on bail).  
Ms. Rubina Qadir, Deputy Prosecutor General, Sindh along with  
ASI Syed Ali Raza.  
Mr. Altaf Hussain, Advocate along with Complainant.

**ORDER**

**ALI HAIDER 'ADA'-J**:- Through this bail application, applicant Muhammad Huzaifa seeks pre-arrest bail in Crime No.144 of 2024 for the offence punishable under Section 489-F PPC registered with P.S Yousuf Plaza, Karachi. The applicant preferred his anticipatory bail before the Court of Sessions wherefrom it was assigned to Addl. Sessions Judge-I, Karachi (Central), who after hearing the parties, has turned down his request through order dated 17.12.2024; hence, instant bail application has been maintained.

2. The dates of incident were mentioned as 05.07.2024 to 21.08.2024 while the same was reported on 25.11.2024, after getting the order from learned Ex-Officio Justice of Peace.

3. The brief facts of the prosecution's case are that there is a dispute between the parties regarding a flat. Through an agreement to sell, the applicant received an amount of Rs. 30,00,000/- from the complainant, in which two cheques were issued, but both were dishonoured. Subsequently, during proceedings before the learned Ex-Officio Justice of Peace, three cheques were issued: Cheque No. A-83374412-1 dated 05.07.2024 for Rs. 13,00,000/-, Cheque No. A-83374413-2 dated 05.08.2024 for Rs. 6,50,000/-, and Cheque No. A-83374414-3 dated 21.08.2024 for Rs.

6,50,000/- . A joint statement was made in which both parties agreed on a sum of Rs. 26,00,000/- before the learned Justice of Peace, Karachi (Central). However, all the disputed cheques were dishonoured, and upon intervention, the complainant received a payment of Rs. 6,50,000/-, but the remaining amount is still due. Consequently, the instant FIR was registered.

4. Learned counsel for the applicant submits that the agreement to sell is not in accordance with the provisions of the Sindh Building Control Authority, as the flat in question cannot be constructed on the fourth floor, so the complainant malafidely thrashed such point in order to involve the applicant in this case. Secondly, learned counsel contends that the witnesses to the agreement, who also recorded their statements under Section 161 Cr.P.C., have confirmed that the complainant paid Rs. 25,00,000/- and further stated that they had no knowledge of any other transactions. Learned counsel further submits that the applicant actually paid Rs. 10,00,000/- instead of Rs. 650,000/-; however, the complainant did not affirm such fact. In support of his contention, learned counsel relies on the cases reported as 2023 SCMR 1977, 2022 SCMR 592, PLD 2017 SC 730, 2024 SCMR 14, 2023 SCMR 1729, PLD 2017 SC 733, and 2021 SCMR 130, and submits a bunch of documents under cover of his statement dated 26.02.2025, which is taken on record.

5. On the other hand, learned counsel for the complainant submits that contrary pleas were taken in the bail application before the trial court. In paragraph 5 of the application, the applicant stated that he was liable to return the amount before the agreed time, but due to financial conditions, he failed to pay the remaining amount, so it is part of admission. Learned counsel further submits that a joint statement was made before the Court of law in which three cheques were issued, so the question of those cheques is involved; however, the applicant insisted on the previous round of litigation while actually the offence created after the joint statement was made by both the applicant and the complainant. Despite this, the applicant did not show any respect for the court proceedings, and his act shows that he attempted to deceive the court. While the complainant had good hopes that the cheques would be honoured, the

applicant failed to do so. In support of his contention, learned counsel places reliance on the cases reported as 2021 SCMR 1466, 2022 MLD 1065, 2022 MLD 1004, 2021 P.Cr.L.J. 856, and 2017 P.Cr.L.J. 1513, and submits a bunch of documents under cover of his statement dated 26.02.2025, which is also taken on record.

6. Learned Deputy P.G, Sindh, submits that documentary evidence is available, and the liability is admitted. During the course of arguments, it was admitted that some of the amount is also liable while the applicant is involved in such kind of practice as one FIR No. 684 of 2023, was registered with P.S. Taimoria, Karachi. Learned Deputy P.G. further submits that to establish the case, the applicant must show malafide on the part of complainant, but the applicant has failed to do so. She further submits that all the cheques were issued before the court proceedings, and now the applicant has committed the offence, which is also one of the breach of trust of the Court process.

7. Heard arguments and perused the material available on record.

8. The Section 489-F PPC does not fall under the prohibitory clause but it does not give any right of entitlement to the applicant to take such advantage that the offence does not fall under the prohibitory clause then he is entitled for the bail as a matter of right. Reliance can be placed on the case of Muhammad Siddique Versus Intiaz Begum and 2 others (2002 SCMR 442). Apart from the FIR, a joint statement was made which shows that the applicant issued three cheques during the proceedings before the Ex-Officio Justice of Peace and on such hopes, the complainant agreed to a settlement of Rs. 26,00,000/-. The agreement shows that both parties were initially open to resolving their issue; however, due to the applicant's act, the matter was not resolved. Furthermore, the cheques submitted during court proceedings were dishonoured, which reflects the applicant's failure to fulfill his obligations as affirmed before the court. The provisions of Section 489-F PPC are very clear, and are hereby reproduced as under;\_

**489- F. Dishonestly issuing a cheque:**

Whoever dishonestly issues a cheque towards repayment of a loan or fulfilment of an obligation which is dishonoured on presentation, shall be punished with imprisonment which may

extend to three years or with fine, or with both, unless he can establish, for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be honoured and that the bank was at fault in not honouring the cheque.

9. In view of the above, part of malafide of the complainant is missing because the cheques were issued by virtue of a joint statement instead of any other individual arbitration or agreement. Therefore, no case for grant of pre-arrest bail is made out. Consequently, instant Criminal Bail Application is hereby dismissed.

*JUDGE*

Zulfiqar/P.A