

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.113 of 2025

Applicant : Khurram Siddiqui
through Mr. Ahtashamul Hassan, Advocate

Complainant : Abdul Razaque Khan
through Ms. Mehreen Ibrahim, Advocate

Respondent : The State
Ms. Rubina Qadiq, A.P.G.

Date of hearing : 24.03.2025

Date of order : 28.03.2025

ORDER

KHALID HUSSAIN SHAHANI, J -- The applicant seeks pre-arrest bail in case bearing crime No.695/2024, offence u/s 489-F PPC of PS Boat Basin, Karachi. The applicant's previous bail plea was declined by the learned VIIIth Additional Sessions Judge, Karachi South, through an order dated 11.01.2025.

2. Briefly, facts of the prosecution case are that the applicant sought financial assistance from the complainant to expand his business. The complainant provided a total of Rs. 4.7 million in two installments under an agreement that the applicant would pay a monthly profit of Rs.245,000/-. Although the first two payments were made, the applicant subsequently began making excuses. Upon repeated requests from the complainant, the applicant issued a post-dated cheque of Rs. 4.7 million, which was dishonored when presented. Consequently, an FIR was lodged against the applicant.

3. Learned counsel contends that the applicant is innocent and has been falsely implicated by the complainant. He submits that the dispute between the applicant and the complainant arose from a business arrangement, under which an agreement was executed between the parties, but this aspect has not been duly considered. He further asserted that the applicant, operating a business under the name and style of Onyx Digital Solutions, enjoys a good reputation in society. The learned counsel referred to clause 'h' of the agreement dated 16.08.2023, contending that the cheque in question was provided as security, which was subsequently substituted by another agreement dated 06.03.2024. However, the complainant did not return the original cheque. He argued that the applicant has already paid an amount of Rs. 84,111,571/- through banking

channels, along with other amounts through different modes of payment. Moreover, he emphasized that the dispute is purely of a civil nature arising out of business transactions between the parties from 2022 to 2024, and the cheque was issued only as security. He maintained that the case does not fall under the prohibitory clause of Section 497(1) Cr.PC, and bail in such cases is the rule, not the exception. In support of his contention, he relied on the judgments in the cases of *Mian Muhammad Akram v. The State and others* (2014 SCMR 1369), *Muhammad Iqbal v. The State and another* (2018 YLR Note 157), *Mian Allah Ditta v. The State and others* (2013 SCMR 51) and *Syed Zahoor-ul-Hassan Shah v. The State* (2021 P Cr. LJ 886).

4. Conversely, learned counsel for the complainant, along with the learned DPG, strongly opposed the grant of bail, arguing that the cheque in question was issued to fulfill an obligation and was not intended as a security cheque. They further contended that the issuance of the cheque is not disputed; hence, it was the applicant's responsibility to ensure that sufficient funds were available. Since the cheque was returned with an endorsement of insufficient funds, they prayed for the dismissal of the bail application.

5. It is an admitted fact that the parties maintained business relations, involving substantial financial transactions through banking channels, as highlighted by the learned counsel for the applicant. He pointed out that the Memorandum of Agreement dated 16.08.2023 was the basis for issuing the subject cheque. According to him, the cheque was issued as security, and it was presented without prior notice. In contrast, the learned counsel for the complainant argued that a legal notice was indeed issued, and the same is annexed with the bail application. Paragraph 4 of the said notice, however, indicates that it was issued after the lodging of the FIR in the present case.

6. The essential ingredients to establish an offence under Section 489-F PPC are: (i) the cheque must be issued with dishonest intent, (ii) it should be issued to repay a loan or fulfill an obligation, and (iii) the cheque must be dishonored upon presentation. However, in the present case, substantial material is available on record indicating that significant financial transactions took place between the parties. Consequently, it remains to be determined during trial whether the cheque in question was given as security or to discharge an obligation. Reference is made to the judgments in *Ali Anwar Paracha v. The State and another* (2024 SCMR

1596), *Noman Khaliq v. The State & another* (2023 SCMR 2122), *Nazir Ahmad alias Bhaga* (2022 SCMR 1467), *Sheikh Abdul Raheem v. The State & another* (2021 SCMR 822) & *Azhar Pervaiz Bukhari v. The State & another* (2024 SCMR 1719) as well as citation produced by the learned counsel for the applicant.

7. Given the above, applicant has succeeded to make out case for bail. As a result, the ad-interim pre-arrest bail earlier granted to the applicant Khurram Siddiqui son of Fahimuddin Siddiqui, is hereby confirmed on the same terms and conditions as stated in the previous order dated 15.01.2025. The present bail application stands disposed of accordingly.

8. It is pertinent to mention that the observations made herein are of a tentative nature and shall not prejudice the learned trial court while deciding the case on its merits.

JUDGE

Shahbaz/PA