

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.575 of 2025

Applicant : Maaz Khan son of Abdul Samad Khan,
through Mr. Sajjad Gul Khatri, Advocate

Complainant : Faizan Ahmed son of Riaz Ahmed Khan
through Ms. Farzana Kalam, Advocate

Respondent : The State
through Ms. Rahat Ahsan, Addl. P.G Sindh.

Date of hearing : 27.05.2025

Date of order : 30.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Maaz Khan, seeks pre-arrest bail in a case bearing crime No.70/2025 registered at P.S. Awami Colony, Karachi for offence under Section 489-F PPC. Previously such plea was declined by the learned IVth Additional Sessions Judge, Karachi East, in a Bail Before Arrest Application No. 726/2025 vide order dated 26.02.2025.

2. As per the F.I.R. contents, the complainant alleged that he had given Rs. 2,300,000/- to the applicant, Maaz Khan, for business purposes. In return, the applicant allegedly issued Cheque No. 11147501 for the said amount, dated January 16, 2025, drawn on Bank Al-Habib. The complainant deposited this cheque into his account with Bank Islami, Bilal Chowrangi Branch, Karachi, but it was dishonoured on January 14, 2025, on account of "insufficient funds." The complainant claims that despite being informed, the applicant avoided returning the amount, leading to the lodging of the F.I.R.

3. Learned advocate for the applicant, fervently argued for the grant of pre-arrest bail, highlighting several crucial points that the F.I.R. is conspicuously silent regarding the nature of the "business purpose" for which the complainant allegedly advanced such a huge amount of Rs.2,300,000/- to the applicant. There is no mention of any written agreement or specific details of the transaction, nor the period for which the alleged amount was to be returned. This lack of a clear underlying obligation, he submitted, renders the allegation of cheque issuance for discharge of a liability highly suspicious. The learned counsel emphasized that the applicant is a businessman who frequently visits Dubai and used

to keep signed blank cheques with his father in his office. He asserted that Cheque No. 11147501, along with others, was stolen from his father's office. He immediately made a "stop payment" request on January 14, 2025 (the same day he was informed of the cheque being referred for clearance), and also approached the S.H.O. P.S. Gulshan-e-Iqbal, District Central Karachi, for action regarding the stolen cheques (Annex-C & D). This proactive action, he argued, negates any dishonest intention on the part of the applicant. The learned counsel drew the Court's attention to the copy of the dishonoured cheque (Annex-D-1), arguing that a bare perusal reveals "material alteration/tempering" with a "fake signature" of the applicant. He submitted that the cheque was bounced not merely due to "insufficient funds" but also due to "alteration." He stressed that the cheque leaf was not filled in the applicant's handwriting. Under the law, a negotiable instrument suffering from material alteration loses its sanctity. Learned counsel pointed out that the applicant had already filed Criminal M.A. No. 388 of 2024 under Section 22-A Cr.P.C. against the complainant and others for the registration of an F.I.R. concerning the stolen cheques. Though this application was dismissed by the learned VIIth Additional Sessions Judge/ Justice of Peace Karachi Central on February 14, 2025 (Annex-E), the very act of approaching the court for the registration of a theft F.I.R. prior to the lodging of the present F.I.R. by the complainant indicates a pre-existing dispute and the applicant's bona fide. The dismissal of a 22-A application does not necessarily negate the underlying claim or the need for further inquiry. The learned counsel vehemently contended that the present F.I.R. is a "counter-blast" and motivated by malafide intentions. He asserted that the complainant is the brother-in-law of one Faheem Ahmed, who owes the applicant's father millions of rupees. He highlighted that the complainant himself had issued four cross-cheques (No. 126867, 68, 69 & 70, each for Rs. 3,000,000/-) from his Bank Islami account to the applicant's father, all of which were dishonoured, leading to an order for F.I.R. registration against the complainant by the learned IVth Additional Sessions Judge/Justice of Peace Karachi East in Criminal M.A. No. 5316 of 2024 dated December 16, 2024 (Annex-F to F-5). This, he argued, strongly suggests a trivial dispute arising from interconnected transactions rather than a simple case of dishonest issuance of a cheque. Given the complex factual matrix, the allegations of cheque theft, material alteration, the absence of a clear underlying agreement, and the counter-allegations of financial disputes between the parties, the case clearly requires "further inquiry" within the meaning of Section 497(2) Cr.P.C. He submitted that the offence under

Section 489-F PPC does not fall within the prohibitory clause of Section 497(1) Cr.P.C., as it does not carry a punishment of death, life imprisonment, or imprisonment for ten years or more. Therefore, bail is not to be refused as a matter of course. The applicant has no previous criminal record and is ready to furnish solvent surety.

4. The learned APG for the State duly assisted by learned advocate for complainant opposed the grant of pre-arrest bail. She contended that the F.I.R. clearly discloses the commission of an offence under Section 489-F PPC. The cheque for Rs. 2,300,000/- was issued by the applicant, deposited by the complainant, and dishonoured due to "insufficient funds," which is a clear ingredient of the offence. She submitted that the applicant's plea of cheque theft and tampering is a defence that can only be established during the trial after recording of evidence and cannot be examined at this pre-arrest bail stage. She argued that the applicant has not cooperated with the investigation, as evidenced by the rejection of his previous bail application by the trial court. She further contended that the existence of counter F.I.Rs. or other disputes does not absolve the applicant of his liability for the dishonoured cheque in question.

5. At this stage of considering a pre-arrest bail application, the Court is primarily concerned with examining whether reasonable grounds exist to believe that the applicant has committed a non-bailable offence, and whether his arrest is necessary for a fair investigation, or if there are grounds for "further inquiry" into his guilt.

6. A thorough examination of the F.I.R. and the applicant's submissions reveals several aspects that warrant "further inquiry" into the allegations, thereby bringing the case within the ambit of Section 497(2) Cr.P.C. As the F.I.R. itself is indeed vague regarding the specific "business purpose" for which a hefty sum of Rs. 2,300,000/- was advanced. There is no mention of any written agreement, defined terms of repayment, or the nature of the alleged business transaction. This ambiguity, while not fatal to the F.I.R. at the initial stage, certainly creates a cloud of doubt regarding the exact nature of the liability, which is a fundamental element in cases under Section 489-F PPC. The applicant's immediate actions, including placing a "stop payment" request on the very day he received information about the cheque's presentation (January 14, 2025, which is prior to the F.I.R. date of January 29, 2025), and his lodging of an application with the S.H.O. P.S. Gulshan-e-Iqbal regarding the stolen cheques, are significant. While the plea of theft and material

alteration is a matter of defence, these contemporaneous actions indicate that the applicant was not merely trying to evade payment but was asserting a claim of fraud or theft regarding the cheque. The dismissal of his 22-A Cr.P.C. application does not necessarily mean his claim of cheque theft is false; it simply means the court at that stage found insufficient grounds to direct F.I.R. registration. The very fact that he resorted to legal recourse for theft prior to the lodging of the present F.I.R. indicates a pre-existing dispute and suggests that the cheque was not issued voluntarily or for a lawful, undisputed liability. The learned counsel's assertion regarding material alteration and tampering of the cheque, if prima facie discernible from the cheque copy, necessitates a deeper inquiry. A cheque that has been materially altered without the drawer's consent loses its validity as a negotiable instrument. This aspect requires forensic examination and cannot be summarily dismissed at the bail stage, especially when the applicant has made a specific averment supported by a copy of the instrument. The most compelling argument for "further inquiry" arises from the allegations of a long-standing and complex financial dispute between the complainant's brother-in-law (Faheem Ahmed) and the applicant's father, leading to dishonoured cheques issued by the complainant himself and a court order for F.I.R. against the complainant. This strongly suggests that the present F.I.R. may not be a straightforward case of dishonest cheque issuance but rather a strategic move or "counter-blast" in the context of interconnected and disputed financial transactions. Section 489-F PPC targets dishonest issuance of cheques to defraud; if the cheque emanates from a complex and disputed series of transactions, particularly with allegations of theft and tampering, the element of dishonest intention requires deeper scrutiny. This takes the case beyond a mere mechanical application of Section 489-F PPC and clearly falls within the category of "further inquiry."

7. It is undisputed that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497(1) Cr.P.C., as the maximum punishment prescribed is imprisonment for three years or fine, or both. Therefore, bail is not to be refused as a matter of course, and the Court has wider discretion to grant bail if further inquiry into the guilt of the accused is warranted. Given the applicant's established abode, his proactive approach to police and court regarding the alleged cheque theft, and the complex nature of the dispute, his pre-arrest custodial interrogation does not appear indispensable at this stage for the collection of evidence.

8. Considering the totality of the circumstances, particularly the complex web of financial transactions, the applicant's immediate actions regarding the alleged cheque theft, the prima facie assertion of material alteration, and the strong indication that the F.I.R. may be a "counter-blast" in a broader dispute, this Court is satisfied that the case requires "further inquiry" within the meaning of Section 497(2) Cr.P.C.

9. For the aforementioned reasons, the instant Bail Application is allowed. Pre-arrest bail earlier granted to applicant vide order dated 07.03.2025 is hereby confirmed on same terms and conditions. It is clarified that the observations made herein are tentative in nature and shall not influence the learned trial court during the course of trial.

J U D G E