

# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Bail Application No.S-409 of 2025

Applicant : Mohsin Ali present on interim pre-arrest bail.

Respondent : The State through Ms. Rameshan Oad, Deputy Prosecutor General Sindh along with I.O. Umaid Ali Lakho.

Complainant : Naveed Ahmed through Mr. Khadim Hussain Laghari, Advocate.

Date of hearing : 02.06.2024.

Date of Order : 02.06.2024.

## **ORDER.**

**Amjad Ali Sahito, J:-** Through instant bail application, the applicant/accused namely, Mohsin Ali seeks pre-arrest bail in Crime No.103/2025, registered at Police Station A-Section Tando Allahyar for the offence under section 489-F PPC. Earlier the bail plea of the applicant/accused was declined by the learned 2<sup>nd</sup> Additional Sessions Judge, Tando Allahyar vide order dated 15.04.2025.

**2.** The details of the FIR are included in the bail application and its attached copy, so there is no need to restate them here.

**3.** This criminal bail application was presented on 17.04.2025, when the applicant was granted interim pre-arrest bail and the matter was fixed for 28.04.2025. On the said date, neither the applicant nor his counsel appeared and no intimation was received; accordingly, non-bailable warrants were issued against the applicant and notice was issued to his surety. Thereafter, on 15.05.2025, the police of P.S. A-Section, Tando Allahyar, produced the applicant before the Court. However, on the application of his counsel, the NBWs were recalled with a warning that the applicant must remain present before the Court on each and every date of hearing until his bail is either confirmed or otherwise decided. Today, the applicant is present; however, his counsel is called absent. In such circumstances, I am left with no option but to decide the instant bail application after hearing the applicant, who is present in person and on the basis of the material available on record, with the assistance of the learned Deputy Prosecutor General, Sindh.

4. The applicant contends that he has falsely been implicated in the instant case; however, the real facts are that there transaction in respect of the purchase of a shop and that the cheque was issued by the applicant to the complainant not towards the fulfillment of any obligation but rather as security. He prays for confirmation of interim pre-arrest bail already granted to him by this Court.

5. On the other hand, learned counsel for the complainant and learned D.P.G. Sindh both oppose the grant of bail to the applicant/accused.

6. Heard and perused the record.

7. The record reveals that the applicant/accused is nominated in the F.I.R., wherein it is alleged that he purchased Shop No. 10, situated at Ubaidullah Mobile Market, from the complainant for a total consideration of Rs.4,700,000/-. It is further alleged that, in the presence of witnesses namely Mushtaque and Manzar Aalam, the applicant paid an amount of Rs.1,500,000/- in cash, while the remaining amount of Rs. 3,200,000/- was to be paid through two subject cheques, which, upon presentation before the bank, were dishonoured due to insufficient funds in the complainant's account. These allegations, prima facie, constitute an offence under Section 489-F, P.P.C. At bail stage only tentative assessment is to be made and nothing has been brought on record to show any ill-will or *mala fide* on the part of the complainant which is requirement for grant of pre-arrest bail. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 SCMR 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:-

*“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”*

8. In view of above discussion, the applicant/accused has failed to make out a good case for confirmation of his bail. In such

circumstances, the bail application is **dismissed** and the interim pre-arrest bail earlier granted to the applicant/accused vide order dated 17.04.2025 is hereby re-called.

**9.** Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

**JUDGE**

\*Abdullah Channa/PS\*