

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2280 of 2025

Syed Muhammad Moosa Zaidi.....Applicant/Accused

Versus

The State.....Respondent

Date of Hearing : 22.10.2025

Date of Order : 22.10.2025

For the Applicant : Mr. Riaz Ahmed Phulpoto, Advocate.

For the Complainant : Mr. Nasrullah Jalbani, Advocate.

For the State : Ms. Rubina Qadir, D.P.G.

ORDER

TASNEEM SULTANA, J: Through this bail application the applicant Syed Muhammad Moosa son of Syed Aijaz Shah seeks post-arrest bail in Crime No.137 of 2025, registered at Police Station Airport, Karachi, under Section 489-F, PPC. Earlier his bail plea was declined by the learned VIIIth Additional Sessions Judge, Malir Karachi.

2. Brief facts of the prosecution case are that the complainant is doing private business and the present applicant/accused borrowed Rs.45,00,000/- as loan for his business and issued a cheque bearing No.149932836 dated 02.01.2025 for Habib Metro Bank Malir City Branch Karachi the complainant deposited the cheque in his account No.10340981035761012 of Bank Al Habib Malir Halt Branch Karachi on 08.04.2025, however, the same was bounced and returned, after that complainant tried to contact with the applicant and found his phone number off. He then approached the Police Station for report and requested for legal action against the applicant/accused.

3. Learned counsel for the applicant contends that the applicant issued a guarantee cheque; that the amount was due on 25.03.2025, however, the cheque was presented in January, 2025 prematurely; that the FIR was lodged after delay of more than three months; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; that in view of the above, the matter requires further inquiry. In support of her contention, learned counsel for the applicant has relied upon *an unreported judgment of Hon'ble Supreme Court dated*

07.08.2025 passed in Criminal Petition No.129-K/2025 and the cases reported in 2020 YLR Note 22.

4. Conversely, learned DPG assisted by learned counsel for the complainant opposes the plea; submits that the applicant issued cheque of a substantial amount which was dishonoured on presentation; that the element of deception and dishonest intention is apparent from the applicant's conduct; that the offence involves considerable financial loss to the complainant and affects public confidence in commercial dealings; that such acts disturb financial discipline and must be dealt with strictly; hence, the applicant does not deserve the discretionary relief of bail.

5. Heard. Record perused.

6. It reflects from the record that the alleged transaction arises from the agreement between the parties. The complainant's claim is based upon the cheque. The authenticity of the agreement and the purpose for which the cheque was issued can only be determined after recording of evidence at trial. At this stage, the matter appears to be one of further inquiry within the meaning of Section 497(2), Cr.P.C.

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. The FIR was lodged more than three months after the cheque was 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. The applicant has joined the investigation.

9. Accordingly, the instant bail application is allowed and the applicant Syed Muhammad Moosa son of Syed Aijaz Shah is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One hundred thousand only) and P.R. bond in the like amount to the satisfaction of the trial Court.

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