

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1197 of 2025

Date: Order with Signature of Judge

Mr. S. Sikandar, Advocate holding brief for Mr. Muhammad Ayub, Advocate for the Applicant.

Applicant is present on bail.

Mr. Mushtaq Ahmed, Advocate for the Complainant alongwith one of the Directors namely Saqib Malik.

Ms. Seema Zaidi, Addl. P.G.

Date of Hearing: 09.09.2025

Date of Reasons: 23.09.2025

ORDER

MUHAMMAD HASAN (AKBER), J.- The concession of pre-arrest bail has been sought in the instant application in Crime No. 790/2024, registered under Section 489-F PPC at Police Station Ferozabad, Karachi. Earlier, the bail application of the applicant/accused was dismissed by the learned VIIIth Additional Sessions Judge, Karachi (East) vide Order dated 08.05.2025, whereafter the applicant has approached this Court.

2. Brief allegations in the FIR are that the complainant was the owner of Trans Fast Logistic Company. He mentioned that one Azmat Hussain Siddiqui, the owner of Iconic Group, had taken a loan of Rs. 6,00,00,000/- from him on 23-10-2026 against the profit. However, Azmat did not provide the agreed profit and issued Cheque No. 2481624064 for Rs. 65,00,000/-, which he deposited into his bank account at Faisal Bank and Habib Metropolitan Bank. The cheque was later bounced on 16-02-2024.

3. Learned counsel for the applicant has contended that the applicant is a reputable businessman but has been falsely implicated in a business dispute whereas the disputed cheques were taken from him by way of fraud hence Section 489-F PPC is not attracted. It is further contended that the FIR is *mala fidely* delayed and is filed only to harass and blackmail, while no civil recovery suit has been instituted by the complainant. It is further contended that the case is purely of civil

nature wherein all evidence is documentary and the matter calls for further inquiry. Lastly contends that the offence does not fall within the prohibitory clause of section 497 Cr.PC., making the applicant entitled to bail as a rule.

4. Learned counsel for the complainant and Addl. P.G opposed the bail application and contended that considering the magnitude of the offence and loss caused, the accused does not deserve concession of bail. It is further argued that offences under Section 489-F PPC are of serious nature, affecting public confidence in commercial dealings and therefore no case for bail is made out.

5. Heard learned counsel for parties and learned Addl. P.G. The allegations in the FIR suggest that the complainant, Saeed Ahmed Khan, claims that the applicant issued a cheque which was subsequently dishonoured. However, the applicant has provided substantial documentation that casts doubt on the nature of the dispute, suggesting that this matter is more aligned with a business disagreement than a simple case of cheque fraud. The Investment and Partnership Deed dated 20.10.2023 is a key document that indicates the cheques in question were issued in the context of a business arrangement, not as part of a personal loan. The complainant, who is a director of the company involved, has taken action individually rather than based upon any authority on behalf of the corporate entity. This raises significant concerns because, in corporate matters, such actions require approval from the Board of Directors yet no Resolution from the Board of Directors authorizing the complainant's actions has been presented. This absence of corporate sanction puts doubt on the validity of the complainant's individual actions in lodging the FIR, especially when the alleged liability appears to be one that the company, not the complainant personally, should address. When the complainant was asked about any repayments or adjustments, he refused to provide any information. On the contrary the documents submitted during the hearing, including the Sale Deed of a property dated 22.04.2024, show a transaction between the complainant and the wife of the applicant. This raises questions about the true nature of obligations between the parties and whether any adjustments or settlements were made to resolve the financial issues at hand. Moreover, a Civil Suit has also been filed regarding the same cheques, which is pending adjudication. This indicates that the matter is more about civil liability and contractual disputes than criminal fraud. The

element of dishonesty therefore requires probe. The involvement of corporate documents, such as the investment deed, the lack of a corporate resolution to authorize the complainant's actions, and the sale deed between the complainant and the applicant's wife suggest that the dispute might be better suited for civil resolution rather than criminal prosecution.

8. In the case of ***Mian Allah Ditta***¹ it has been held by the Honourable Supreme Court that every transaction where a cheque is dishonoured would not constitute an offense in the absence of obligation and dishonesty. In ***Ali Anwar Paracha***²² it has been held by the Supreme Court that the foundational elements to constitute an offence under section 489-F are the issuance of cheque, with dishonest intent, and the issuance of cheque towards repayment of loan or fulfilment of an obligation. In ***Abdul Rashid***³ and ***Khizer Hayat***⁴ cases the Supreme Court held that where there was business relationship between the parties and the cheques mentioned in the FIR were issued as Surety or Guarantee, the same were held as falling short of the requirements of an obligation within the meaning of section 489-F PPC and on such ground, the case was held to be of further enquiry and bail was granted. In the case of ***Muhammad Tanveer***⁶ where a civil suit for declaration with respect to the subject transaction was pending adjudication before the court of competent jurisdiction, it was held that the possibility of ulterior motives cannot be ruled out. In ***Noman Khaliq***⁷, a case where there was business relationship between the parties and the allegation of dishonour of cheque under section 489-F PPC was leveled, it was observed that the provision of section 489-F PPC are not intended by the legislature to be used for recovery of an alleged amount but civil proceedings provide remedies inter alia under Order XXXVII CPC. In this view of the matter the question whether the cheques were issued towards repayment of loan or fulfilment of an obligation within the meaning of section 489-F, was held to be a question which should be resolved by the trial Court after recording evidence.

1. *'Mian Allah Ditta v. The State and others'* 2013 SCMR 51

2. *'Ali Anwar Paracha v. The State'* 2024 SCMR 1596

3. *'Abdul Rashid v. The State'* 2023 SCMR 1948

4. *'Khizer Hayat v. The State'* 2021 MLD 1597

5. *Unreported Judgment dated 03.06.2024 in 'Muhammad Anwar v. The State and another' in Criminal Petition for Leave to Appeal No.340 of 2024*

6. *'Muhammad Tanveer v. The State'* 2023 SCMR 581

7. *'Noman Khaliq v. The State'* 2023 SCMR 2122

9. Absence of material to establish payment by complainant to the applicant; execution of Investment and Partnership Deed; Execution of Sale Deed; absence of Resolution from the Board of Directors; and pendency of Civil Suit all make it a case of Further Inquiry. Maximum sentence under section 489-F is three years, not falling under the Prohibitory Clause of section 497 Cr.P.C. which entitles the applicant for pre-arrest bail.

10. Upshot of the above discussion is that, on a tentative assessment and following the ratio settled in the cases discussed above, a case for grant of pre-arrest bail is made under Section 498 Cr.P.C. The interim pre-arrest bail granted to the applicant vide order dated 12.05.2025 has already been confirmed on the same terms and conditions vide my short order dated 09.09.2025 and these are the reasons for the same. The observations made herein are tentative in nature and shall not be construed to prejudice the case of either party at trial.

J U D G E