

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1412 of 2025

Applicant : Mst. Sadaf Imran wife of Imran Khan Awan through Mr. Masood Ahmed Bhatti, Advocate

Complainant : Irfan Khan Adil son of Muhammad Ameen through Mr. M. Ibrahim Baig, Advocate

The State : Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 09.12.2025

Date of decision : 09.12.2025

O R D E R

Jan Ali Junejo, J. - Through the present criminal bail application under section 498, Cr.P.C., the Applicant seeks pre-arrest bail in a case arising out of FIR No. 299 of 2025, registered at Police Station Steel Town, Karachi, for the offence under section 489-F, PPC. The Applicant initially approached the learned Court of Sessions by filing Bail Before Arrest Application No. 1641 of 2025, which was transferred to the Court of the learned VIth Additional District & Sessions Judge, Malir, Karachi. The said Court granted interim pre-arrest bail to the Applicant on 21.04.2025; however, the same was subsequently declined vide order dated 14.05.2025. Being aggrieved thereby, the Applicant invoked the jurisdiction of this Court, which was pleased to grant ad-interim pre-arrest bail to the Applicant vide order dated 29.05.2025.

2. As per the FIR dated 19.04.2025, the complainant, a private teacher, claims to have invested Rs. 6,000,000/- with the Applicant pursuant to written agreements dated 21.03.2024 and 21.06.2024. Upon alleged default, he demanded principal and profit totaling Rs. 14,515,000/-. It is asserted the Applicant paid Rs. 3,409,000/- in cash and issued nine cheques to cover the remainder; six allegedly issued by the Applicant and three by one Anas Salik, said to be associated with

Concordia College. Three cheques presented between 30.09.2024 and 31.12.2024 were dishonoured due to insufficient funds. On these assertions, FIR under Section 489-F, PPC was registered upon approval/order of the supervisory police authority dated 18.04.2025.

3. Learned counsel for the Applicant submits that the Applicant has been falsely implicated and the dispute, in substance, is of a civil and contractual nature relating to investment/settlement accounts, which has been given a criminal colour to exert pressure. He contends that there is inordinate and unexplained delay, as the alleged dishonour events pertain to the period between 30.09.2024 and 31.12.2024, whereas the FIR was lodged on 19.04.2025, which delay at the bail stage enures to the benefit of the Applicant. He further argues that the agreements and cheques are seriously disputed, as the complainant allegedly prepared documents and procured signatures under duress, while cheque leaves were taken from a shared office locker during their prior professional association, some of which were merely security cheques. He submits that substantial amounts have already been paid, including Rs. 3,409,000/- in cash acknowledged in the FIR and Rs. 4,413,000/- through online transfers, supported by annexed receipts. He argues that mere issuance or possession of a cheque does not constitute an offence under section 489-F, PPC, unless it is *prima facie* shown that the cheque was issued dishonestly towards repayment of a legally enforceable liability, which is seriously disputed and requires evidence. Lastly, he contends that no recovery is to be effected, custodial interrogation is unnecessary, the Applicant has cooperated with the investigation, has no criminal antecedents, is a woman, and thus prays that the bail application be allowed.

4. Learned counsel for the Complainant, on the other hand, argues that the dishonoured cheques constitute sufficient *prima facie* material to attract section 489-F, PPC. He contends that the Applicant issued multiple cheques even after making part payments, and their dishonour clearly reflects culpability. He further argues that the plea of security cheques, alleged coercion, and the assertion that the matter is civil in nature are all questions of fact requiring evidence and can only be adjudicated at trial. On these grounds, he prays that the bail application be dismissed.

5. Learned A.P.G. for the State contends that the record discloses reasonable grounds to believe that the Applicant committed the offence alleged, as the issuance and subsequent dishonour of cheques are admitted facts. She argues that the element of mens rea is *prima facie* inferable at this stage and that the defence raised by the Applicant

requires deeper appreciation of evidence. She, therefore, supports the stance of the complainant and prays that the bail application be dismissed.

6. I have considered the arguments advanced by the learned counsel for the Applicants, the learned counsel for the Complainant as well as the learned A.P.G. for the State, and have also undertaken a tentative assessment of the material available on record, as permissible at the bail stage. It is settled law that pre-arrest bail under Section 498 Cr.P.C. is an extraordinary relief, intended to protect an innocent person from arbitrary, mala fide or unjustified arrest, and that the power of arrest should not be employed as a tool for harassment or humiliation. Upon tentative assessment, it appears that the cheques were dishonoured on 30.09.2024 and 31.12.2024; the FIR was lodged on 19.04.2025. The delay spanning several months, without a satisfactory explanation on record, *prima facie* casts doubt upon the prosecution version; at the bail stage, such doubt may tilt in favour of the accused. The complainant himself avers receipt of Rs. 3,409,000/- in cash from the Applicant. The Applicant has exhibited online transfer receipts alleged to predate or accompany the dealings. The underlying agreements, their enforceability, the computation of claimed profit, and the precise legally enforceable liability at the time of issuance/presentation of each cheque are matters requiring evidence. The Supreme Court has consistently held that for Section 489-F, PPC, the prosecution must *prima facie* demonstrate that the cheque was issued towards repayment of a loan or fulfillment of an obligation, and that the element of dishonesty accompanies issuance; mere issuance or dishonour, in a backdrop of contested civil liability or security instruments, may not, by itself, suffice to deny bail. Whether the cheques were issued as security or otherwise, whether any coercion/duress occurred, and what amount, if any, remained due on relevant dates, are all triable issues. The record does not indicate any recovery to be effected from the Applicant, nor any requirement of custodial interrogation. The Applicant has been on ad-interim bail, has joined the investigation, and has not misused the concession. She is a woman with fixed residence; no prior criminal history has been pointed out. Allegations of police harassment and raids, if any, reinforce the need to protect against potential humiliation where the case revolves around documents already with the parties.

7. In view of the disputed liability, part-payments, delay in FIR, and civil flavour of the underlying transaction, the case, at least *prima facie*, falls within the domain of "further inquiry" as contemplated under Section 497(2), Cr.P.C., read with the principles governing pre-arrest bail, namely, that such relief, though extraordinary, is to prevent abuse of process and

unjustified arrest where mala fide, ulterior motives, or absence of necessity for custody are demonstrated.

8. Principles enunciated by the Honourable Supreme Court regarding Section 489-F, PPC, requiring *prima facie* proof that the cheque was issued towards a subsisting legally enforceable obligation and the presence of dishonest intent, and that mere issuance/dishonour or existence of civil disputes does not *ipso facto* warrant incarceration at bail stage. Jurisprudence that where the matter is predominantly civil, involves accounting/settlement, and no recovery is to be made, bail is to be favoured; and that delay in lodging FIR, absent cogent explanation, contributes to further inquiry. In case where bail was granted in an offence under Section 489-F, P.P.C. i.e., ***Ali Anwar Paracha v. The State and another (2024 SCMR 1596)***, the Honourable Supreme Court of Pakistan held that: *"In this view of the matter, the question whether the cheque was issued towards fulfilment of an obligation within the meaning of section 489-F, P.P.C. is a question, which would be resolved by the learned Trial Court after recording of evidence. The petitioner is behind the bars since his arrest. The maximum punishment provided under the statute for the offence under section 489-F, P.P.C. is three years and the same does not fall within the prohibitory clause of section 497, Cr.P.C. It is settled law that grant of bail in the offences not falling within the prohibitory clause is a rule and refusal is an exception"*. In another similar offence under Section 489-F, P.P.C., in the case of ***Muhammad Anwar v. The State and another (2024 SCMR 1567)***, the Honourable Supreme Court of Pakistan was pleased to grant bail by observing that: *"In view of the above, the question whether the cheques were issued towards repayment of loan or fulfillment of an obligation within the meaning of Section 489-F, P.P.C. is a question, which would be resolved by the learned Trial Court after recording of evidence. The maximum punishment provided under the statute for the offence under Section 489-F, P.P.C. is three years and the same does not fall within the prohibitory clause of Section 497, Cr.P.C. It is settled law that grant of bail in the offences not falling within the prohibitory clause is a rule and refusal is an exception"*.

9. For the foregoing reasons, this Criminal Bail Application is allowed. Consequently, the ad-interim pre-arrest bail earlier granted to the Applicant, Mst. Sadaf Imran W/o. Imran Khan Awan, in FIR No. 299 of 2025, Police Station Steel Town, Karachi, registered under section 489-F, PPC, is hereby confirmed on the same terms and conditions as already stipulated by this Court. The observations made herein are tentative in

nature and are confined solely to the determination of the bail application. The learned Trial Court shall not be influenced by these observations and shall decide the case strictly in accordance with law on the basis of evidence produced before it. These constitute the detailed reasons for the short order dated 09.12.2025.

JUDGE

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