

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1935 of 2025

Applicant : Sikandar e Azam son of Muhamad Shahabuddin
through Mr. Abdul Nabi Joyo,
Advocate

The State : Through Ms. Rubina Qadir,
Additional Prosecutor General,
Sindh assisted by Mr. Jamil Ahmed
Javed advocate for the complainant.

Date of hearing : 10.03.2026.

Date of decision : 10.03.2026.

ORDER

Jan Ali Junejo, J.- The present applicants seek pre-arrest bail in FIR No.217/2025, under Section 420/489-F PPC registered at Police Station Shahrah-e-Noor Jahan, Karachi, calling in question the order dated 24.07.2025 passed by the learned Additional District & Sessions Judge-IV, Karachi (Central), whereby his pre-arrest bail application was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court vide Order dated: 25.07.2025.

2. The accusation against the applicant as per contents of FIR lodged by the Complainant is that he issued seven post-dated cheque leaf bearing No.59071256 [Rs.5,00,000/-], 59071258 [Rs.10,00,000/-], 59071259 [Rs.10,00,000/-], 59071261 [Rs.10,00,000/-], 59071262 [Rs.15,00,000/-], 59071263 [Rs.15,00,000/-] and 59071264 [Rs.15,00,000/-], in favor of complainant, which was dishonored on presentation before the bank concerned due to insufficient funds. Such F.I.R No.410/2025, was registered under Section 489-F PPC at Police Station Awami Colony against the applicant.

3. Learned counsel for the applicants, argues that the applicants are innocent and falsely been implicated in this case by the Complainant in connivance with the police in this case, the applicant/accused has committed no offence; that FIR was lodged with inordinate delay of more than 22 months without any plausible explanation, that the essential

ingredients of Section 489-F PPC, including dishonest intention and mens rea at the time of issuance of cheque are completely missing. He further argued that there is no direct or indirect evidence connecting the applicant/accused with the commission of offence. He further argued that Section 420 PPC is bailable offence and Section 489-F PPC is not hit by the prohibitory clause of Section 497 Cr.PC, and that the applicant has joined investigation and has not misused the concession of interim protection; therefore, he prays that the pre-arrest bail be confirmed.

4. Learned Additional Prosecutor General for the State and learned counsel for the complainant, argue that the offence is duly reflected from the contents of the FIR and supporting material, that the cheque was dishonoured, and that sufficient prima facie material is available to connect the applicants with the commission of the offence. They contend that pre-arrest bail is an extraordinary relief which cannot be granted as a matter of course, particularly where the accused has allegedly misused earlier concessions, and therefore they pray that the present pre-arrest bail application be dismissed.

5. I have given thoughtful consideration to the arguments advanced by the learned counsel for the Applicant and the learned A.P.G. for the State, and have carefully examined the record with a tentative assessment, as is permissible at the bail stage. It is well settled that pre-arrest bail is an extraordinary relief, intended to protect innocent persons from abuse of the process of law, undue harassment, humiliation, or mala fide arrest. At this stage, the Court is not required to undertake a deeper appreciation of evidence; rather, it is to make a tentative assessment of the material available on record. For attracting the provisions of Section 489-F, P.P.C., the prosecution is required, at least prima facie, to establish the following essential ingredients: (i) issuance of a cheque by the accused; (ii) issuance of such cheque dishonestly; (iii) existence of a legally enforceable debt, liability, or obligation; (iv) knowledge or mens rea at the time of issuance that the cheque would be dishonoured; and (v) dishonour of the cheque upon its presentation. It is by now settled law that mere dishonour of a cheque, by itself, does not constitute an offence under Section 489-F, P.P.C., unless all the aforesaid ingredients coexist. A careful perusal of the FIR, challan, and annexed material reveals that admittedly there is dispute of sale and purchase of plot. The prosecution record is silent as to when, where, and in what manner the alleged cheque was issued by the present applicant in discharge of any liability. The mode of transaction, consideration, and foundation of liability have not been disclosed, which are fundamental prerequisites for invoking Section 489-F PPC. Equally

significant is the fact that the FIR does not allege any dishonest intention (mens rea) on the part of the present applicant at the time of issuance of the cheque. There is no assertion that the applicant knowingly issued the cheque with the intention that it would be dishonoured. In the absence of such allegation, the essential element of dishonesty, being the soul of Section 489-F PPC, remains unestablished at this stage. Merely relying upon the alleged agreement does not justify invoking section 420 PPC, which is required to be trashed out by the trial Court after recording the evidence of the complainant.

6. In view of the absence of: privity of contract, disclosure of any subsisting debt or liability, and allegation of dishonest intention attributable to the present applicant, the core ingredients of Section 489-F PPC cannot be conclusively determined without recording of evidence. These aspects require deeper probe and proper appreciation at trial. Consequently, the case, so far as the present applicant is concerned, squarely falls within the ambit of "further inquiry" as envisaged under Section 497(2) Cr.P.C.

7. It is further observed that: The FIR has been lodged after a considerable unexplained delay; The alleged transaction appears to be predominantly civil in nature; The offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; and Bail is not to be withheld as a measure of punishment.

8. In similar circumstances 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. Keeping in view the settled principles of law governing pre-arrest bail, this Court is of the tentative view that the applicant has made out a case for confirmation of pre-arrest bail. Consequently, the ad-interim pre-arrest bail granted to the applicant vide order dated 25.07.2025 in Crime No.217 of 2025, registered at Police Station Shahrah-e-Noor Jahan, Karachi, under Section 420/489-F PPC, is hereby confirmed, subject to the same terms and conditions. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

JUDGE