THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.348 of 2026

Applicant	:	M. Immad son of Abdul Majeed through Mr. Imdad Ali Saheto, Advocate
Complainant	:	Shaikh Muhammad Saeed son of Shaikh Abdul Hayee through Mr. Shaukat Ali, Advocate
Respondent	:	The State through Mr. Sharaf-u-Din Kanhar, Assistant Prosecutor General, Sindh along with SIP-Naeem Khan of Police Station Baghdadi CIC Lyari District City, Karachi
Date of hearing	:	04.06.2026
Date of decision	:	04.06.2026

O R D E R

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant– M. Immad son of Abdul Majeed, seeks pre-arrest bail in FIR No.222 of 2025, under Section 489-F PPC, registered at Police Station Mithadar, Karachi, calling in question the Order dated 29.01.2026, passed by VIth Additional Sessions Judge Karachi South, whereby, his pre-arrest bail application was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court vide Order dated: 02.02.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that on 06.12.2025 at 06:00 hours, Complainant, Shaikh Muhammad Saeed son of Shaikh Abdul Hayee, lodged an FIR at Police Station Mithadar, Karachi, alleging therein that he carries a business under the name and style of M/s. Shaikh Brothers and had sold fabric/ cloth to present Applicant, amounting to Rs.39,15,765/-. Towards part payment of the said liability, the Applicant issued a (cash) cheque bearing No.32983975 dated 28.07.2025, amounting to Rs.15,00,000/- of Bank Al-Falah, Sharifabad Branch, Karachi, which was dishonored on presentation before the Bank concerned due to insufficient funds; hence, this FIR.

3. Learned Counsel for the Applicant argued that the Applicant is innocent and has falsely been implicated in this case by the Complainant to pressurize him for recovery of a disputed commercial amount. He further argued that the Applicant has committed no offence and there is a dispute of civil nature. He further argued that FIR was lodged with an inordinate delay of about two months without any plausible explanation and 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 with the commission of offence. He further argued that Section 489-F PPC is not hit by the prohibitory clause of Section 497 Cr.PC, and that the Applicant has joined the investigation and has not misused the concession of interim protection; therefore, he prays that the pre-arrest bail may be confirmed. In support of his contentions, learned Counsel has placed reliance upon the case laws reported as MUHAMMAD SALEEM *versus* The STATE [2023 P. Cr L J Note 52], ABDUL RASHEED *versus* The STATE [2023 SCMR 1948], SAQLAIN HAIDER *versus* The STATE [2025 MLD 2005], MUHAMMAD RAFAQAT YOUSAF *versus* The STATE [2019 P Cr. L J 295], SHAUKAT IQBAL *versus* MUHAMMAD SHUMAIL AKRAM [2023 CLC 193], ABDUL SABOOR *versus* The STATE through A.G. Khyber Pakhtunkhwa and another [2022 SCMR 592], an unreported Orders, passed by this Court in Criminal Bail Application S-126 of 2025 and Criminal Bail Application No.2098 of 2025.

4. Learned Counsel for the Complainant, on the other hand, argues that the Applicant is directly connected with the transaction in question and that the cheque was issued towards discharge of liability which was dishonoured on presentation. He contends that the dishonour of cheque has caused serious financial loss to the Complainant, that the Applicant is avoiding his liability under the guise of a civil dispute, and that he does not deserve the extraordinary relief of pre-arrest bail; hence, he prays that the application be dismissed. In support of his contentions, learned Counsel has placed reliance upon case laws reported as GULSHAN ALI SOLANGI *versus* The STATE through P.G., Sindh [2020 SCMR 249] and IJAZ ALI and others *versus* The STATE and another [2025 P Cr. L J 1337].

5. Learned Assistant Prosecutor General, Sindh argues 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 Applicant with the commission of the offence. He contends 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 he prays that the present pre-arrest bail application be dismissed.

6. I have given thoughtful consideration to the arguments advanced by the learned Counsel for the Applicant, Assistant Prosecutor General, Sindh as well as Complainant's Counsel 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 and annexed material reveals that admittedly there is a business of sale and purchase of fabric/ cloth. 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 has 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 cheques. There is no assertion that the Applicant knowingly issued the cheques 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.

7. In view of the absence of: privity of contract and allegation of dishonest intention made out the case of further inquiry, 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.

8. It is further observed that: The FIR has been lodged after a considerable unexplained delay; The alleged transaction appears to be predominantly business of sale and purchase of fabric/ cloth; 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.

9. 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"*.

10. 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 02.02.2026 in Crime No.222 of 2025, registered at Police Station Mithadar, Karachi, for offence under Section 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

Qurban