THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.886 of 2026

Applicant	:	Muhammad Tajammul Khan son of Badar Jamal Khan through Mr. Ghulam Nabi Shar, Advocate
Complainant	:	Mst. Misbah Ur Rehman Daughter of Habib Ur Rehman 'NEMO'
Respondent	:	The State through Ms. Najma Latif Golo, Assistant Prosecutor General, Sindh
Date of hearing	:	07.10.2026
Date of decision	:	07.10.2026

O R D E R

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant–Muhammad Tajammul Khan son of Badar Jamal Khan, seeks pre-arrest bail in Crime No.382 of 2025, registered at Police Station Shara-e-Noor Jahan, Karachi, for an offence punishable under Section 489-F, PPC. The Applicant has called in question the Order dated 30.06.2025, passed by the learned Additional Sessions Judge-VII/ MCTC-02, Karachi Central, whereby his application for pre-arrest bail was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court *vide* Order dated 17.03.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that the Complainant invested a sum of Rs.870,000/- in a laboratory business jointly with Applicant-Muhammad Tajammul Khan son of Badr Jamal Khan, on the agreed condition that the profit would be shared equally. The Applicant initially paid the Complainant his share of the profit on four occasions; however, thereafter, he failed to pay any further profit despite repeated assurances. Upon the Complainant's demand for the return of his investment, the Applicant issued a Cheque No.00058212, amounting to Rs.100,000/-, drawn on Microfinance Bank Limited, which was dishonoured on presentation before the Bank concerned on 08.05.2025 due to insufficient funds; hence, this FIR.

3. Learned Counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated by the Complainant in order to pressurize him in connection with a dispute arising out of a business transaction. It was argued that the cheque in question was issued as security and not towards discharge of any legally enforceable liability.

Learned Counsel further submitted that the dispute between the parties is essentially civil in nature and that the ingredients of Section 489-F, PPC, particularly dishonest intention or mens rea at the time of issuance of the cheque, are not available from the prosecution material. It was also contended that the FIR was lodged after an unexplained delay of more than sixteen days. According to learned Counsel, the offence under Section 489-F, PPC, does not fall within the prohibitory clause of Section 497(1), Cr.P.C., the Applicant has joined the investigation, and there is no allegation that he misused the concession of interim pre-arrest bail. He, therefore, prayed for confirmation of the interim bail.

4. Learned Assistant Prosecutor General, Sindh, opposed the application and submitted that the offence is prima facie made out from the contents of the FIR and the supporting material. She contended that the cheque admittedly stood dishonoured and that sufficient material is available connecting the Applicant with the alleged offence. It was further argued that pre-arrest bail is an extraordinary relief and cannot be claimed as a matter of right.

5. I have heard learned Counsel for the Applicant as well as Assistant Prosecutor General, Sindh, and have carefully examined the available record. At the bail stage, the Court is required to make a tentative assessment of the material available on record and is not expected to undertake a deeper appreciation of evidence or conduct a detailed examination of the merits of the case. Pre-arrest bail, being an extraordinary relief, is ordinarily intended to protect a person from unjustified arrest, harassment or abuse of the process of law, where the circumstances so warrant.

6. In order to attract the penal provision of Section 489-F, PPC, the prosecution is required to establish, prima facie, that the accused issued a cheque; that the cheque was issued dishonestly towards repayment of a loan or fulfilment of an obligation; that there existed a legally enforceable obligation or liability; and that the cheque was dishonoured upon presentation. Mere dishonour of a cheque, by itself, does not automatically constitute an offence under Section 489-F, PPC, unless the requisite statutory ingredients are prima facie established.

7. In the present case, the prosecution alleges that an amount of Rs.870,000/- was initially advanced to the Applicant pursuant to a business arrangement and that, subsequently, one cheque of Rs.100,000/- was issued. However, the record presently available does not satisfactorily disclose the circumstances in which the said cheque was

issued, including the precise nature and legal character of the liability for which the cheque was allegedly issued.

8. More importantly, the question whether the applicant had dishonest intention at the time of issuance of the cheque is a matter requiring evidence. The mere fact that the cheque was subsequently dishonoured cannot, in isolation, establish the requisite dishonest intention at the time of issuance. The prosecution has yet to establish, through legally admissible evidence, the circumstances demonstrating that the Applicant issued the cheque with the requisite dishonest intention.

9. The defence plea that the cheque was issued as security in the context of a business transaction also raises a factual question, which cannot be conclusively determined at the bail stage. Likewise, the question regarding the actual nature of the financial transaction, the extent of the alleged liability, the purpose for which the cheque was issued, and the circumstances attending their issuance are matters requiring proper appreciation of evidence at trial.

10. It is also noticeable that there is an apparent delay in setting the criminal law into motion after the alleged transaction and dishonour of the cheque. The explanation offered for such delay, if any, is a matter to be assessed on the basis of evidence. At this stage, the delay, when considered together with the nature of the underlying business transaction and the disputed circumstances surrounding issuance of the cheque, adds an element requiring further inquiry.

11. Without expressing any final opinion on the merits of the case, the material presently available creates reasonable doubt requiring further inquiry within the meaning of Section 497(2), Cr.P.C.

12. It is further noted that the alleged offence under Section 489-F, PPC, does not fall within the prohibitory clause contained in Section 497(1), Cr.P.C. The Applicant has already joined the investigation and no material has been brought on record to demonstrate that, during the period of interim protection, he misused the concession granted by this Court, attempted to influence the witnesses, tampered with the prosecution evidence, or otherwise obstructed the course of investigation.

13. In the circumstances discussed above, this Court is of the tentative view that the applicant has made out a case warranting confirmation of the pre-arrest bail already granted to him. Accordingly, the ad-interim pre-arrest bail granted to Applicant-Muhammad Tajammul Khan son of Badar Jamal Khan *vide* Order dated 17.03.2026, in Crime No.382 of 2025, registered at Police Station Shara-e-Noor Jahan Karachi, for an offence punishable under Section 489-F, PPC, is hereby confirmed, subject to the same terms and conditions.

14. Needless to observe that the observations made herein are tentative in nature and shall have no bearing upon the merits of the case or the learned Trial Court's determination after recording and appreciating the evidence in accordance with law.

JUDGE

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