THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2617 of 2026

Applicant	:	Syed Rizwan Hussain Shah son of Syed Qurban Hussain Shah through Mr. Ihsan Ali Siyal, Advocate
Complainant	:	Hafiz Kashif Anwer son of Iqbal Yousuf through Mr. Faiz Durrani, Advocate along with Mr. Muhammad Sarfaraz Durrani, Advocate
Respondent	:	The State through Ms. Seema Zaidi, Additional Prosecutor General, Sindh
Date of hearing	:	15.10.2026
Date of decision	:	15.10.2026

O R D E R

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant–Syed Rizwan Hussain Shah son of Syed Qurban Hussain Shah, seeks pre-arrest bail in Crime No.271 of 2026, registered at Police Station Gizri, Karachi, for an offence punishable under Section 489-F, PPC. The Applicant has called in question the Order dated 15.08.2026, passed by the learned Additional Sessions Judge-III, Karachi South, whereby his application for pre-arrest bail was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court *vide* Order dated 19.08.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that the Complainant, who is engaged in his own business, invested a total sum of Rs.50,00,000/- in the business of Syed Rizwan Hussain Shah, CEO of Milano HNE Tea Company, under an agreement. Initially, the accused paid some profit; however, he subsequently stopped making payments. Upon demand for the invested amount, the Applicant issued three cheques of Company i.e. Milano HNE Tea, out of which, one cheque for Rs.10,00,000/- was encashed, while the remaining two cheques, bearing Nos.10024523 for Rs.30,00,000/- and 10031968 for Rs.10,00,000/-, respectively, were dishonoured upon presentation through the Complainant's account maintained at Bank Al Habib, 9th Commercial, Phase VI, DHA, Karachi; 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 amount, arising out of a

business transaction. It was argued that the cheques in question were issued as security and not towards discharge of any legally enforceable liability. 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 twenty 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 ABDUL RASHEED *versus* The STATE and another [2023 SCMR 1948], MUHAMMA SHAHID *versus* The STATE [2025 MLD 781], SAQLAIN HAIDER *versus* The STATE [2025 MLD 2005] and SHAHNEEL GUL and 2 others *versus* The STATE [2018 YLR 999],

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 cheques were issued towards discharge of liability which were dishonoured on presentation. He contends that the dishonour of cheques 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 the case laws reported as AZHAR PERVAIZ BUKHARI *versus* The STATE and another [2024 SCMR 1719], SHAKEEL AHMED SAHITO *versus* The STATE [2022 MLD 1004], MUHAMMAD YAQOOB *versus* The STATE [2022 MLD 1065], MUHAMMAD YASIR MEHMOOD *versus* Syed SIBT-E-HAIDER ZAIDI and another [2022 YLR 1046], ABDUL AZIZ MEMON *versus* The STATE [2020 SCMR 313], SEEMA FAREED and others *versus* The STATE [2008 SCMR 839] and HABIB BANK LTD., *versus* IQBAL I. CHUNDRIGAR and another [1983 CLC 1464].

5. Learned Additional Prosecutor General, Sindh argues that the offence is duly reflected from the contents of the FIR and supporting material, that the cheques were dishonoured, and that sufficient *prima facie* material is available to connect the Applicant with the commission of the offence. She 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 she 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, Additional 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 the relationship between the Complainant and the Applicant was based upon a business arrangement, and the dispute essentially pertains to repayment of amount along with profit. The prosecution record is silent as to when, where, and in what manner the alleged cheques were 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 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.

7. In view of the absence of: 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 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. 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 Applicant-Syed Rizwan Hussain Shah son of Syed Qurban Hussain Shah *vide* Order dated 19.08.2026 in Crime No.271 of 2026, registered at Police Station Gizri, 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

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