THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Application No.S – 599 of 2026

[*Rashid Ali v. The State*]

Date of hearing : 31.08.2026

Date of Decision : 31.08.2026

Mr. Sarfraz A. Akhund, Advocate for the applicant
Mr. Muhammad Tarique Panhwar, Advocate for the complainant
Mr. Aftab Ahmed Shar, Additional Prosecutor General

O R D E R

ARBAB ALI HAKRO, J. – Through the instant criminal bail application under Section 498 Cr.P.C., the applicant, Rashid Ali, son of Ghulam Muhammad Lakhan, seeks confirmation of pre-arrest bail in Crime No.185/2026, registered at Police Station "A" Section Ghotki, for an offence punishable under Section 489-F, P.P.C. The applicant had earlier approached the learned Additional Sessions Judge-III, Ghotki, through Criminal Bail Application No.1250/2026, which was dismissed vide order dated 12.06.2026. Thereafter, the applicant approached this Court and was admitted to interim pre-arrest bail vide order dated 19.06.2026.

2. Briefly stated, the prosecution case is that the complainant, Wali Muhammad, alleged that, being closely related to and having friendly relations with the applicant, he gave the applicant a loan of Rs.50,00,000/-. According to the complainant, in discharge of the said liability, the applicant issued cheque No.00130505 dated 26.03.2026 for an amount of Rs.50,00,000/- drawn on his bank account. The cheque was subsequently presented by the complainant and was dishonoured. Thereafter, the complainant demanded repayment of the amount from the applicant, who allegedly failed to pay the same. Consequently, the instant F.I.R. was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to previous grudge and mala fide on the part of the complainant, who is admittedly a close relative of the applicant. He submitted that the prosecution story contains material discrepancies and that there is an unexplained delay in registration of the

F.I.R. He further submitted that the complainant has not disclosed sufficient particulars regarding the alleged source of Rs.50,00,000/- or the sale of the plot from which the said amount was allegedly arranged. Learned counsel also pointed out discrepancies concerning the bank branch from which the return memorandum was allegedly issued and submitted that the applicant had already reported missing cheques and had taken steps regarding his account. He contended that mere production of a dishonoured cheque does not, by itself, establish the commission of an offence under Section 489-F P.P.C., unless dishonest intention and the underlying loan or obligation are established. He further submitted that the applicant has joined the investigation and is neither a previous convict nor likely to abscond or tamper with the prosecution evidence. He therefore prayed for confirmation of the interim pre-arrest bail. In support of his submissions, he relied upon the cases of Muhammad Akhtar v. The State and others (2025 SCMR 1631), an unreported Order dated 15.06.2026 passed in Cr. Bail Application No. S-313 of 2026 (Nawaz Iftikhar Alam v. The State), Order dated 21.04.2025 passed in Cr. Bail Application No. S-712 of 2025 (Muhammad Irfan v. The State) and Order dated 18.12.2025 passed in Cr. Bail Application No. S-575 of 2025 (Shahzado Khan @ Zado v. The State).

4. Learned counsel for the complainant and the learned A.P.G. for the State opposed the application on the ground that the applicant is specifically nominated in the F.I.R.; the cheque in question bears his account details and has been admitted to be dishonoured; and the bank record collected during the investigation prima facie connects the applicant to the alleged offence. It was further contended that the learned Additional Sessions Judge-III, Ghotki, after examining the available material, had already declined pre-arrest bail to the applicant vide order dated 12.06.2026. It was argued that the mere fact that Section 489-F P.P.C. does not fall within the prohibitory clause of Section 497 Cr.P.C. does not, by itself, entitle the applicant to the extraordinary concession of pre-arrest bail.

5. I have heard learned counsel for the parties and examined the available record.

6. There is no cavil with the proposition that pre-arrest bail is an extraordinary relief, to be granted only where the accused shows circumstances indicating malafide, ulterior motive, or an attempt to cause unjustified humiliation through arrest. At the same time, when deciding a bail application, the Court is not required to conduct a deeper appreciation of the evidence and is only to make a tentative assessment of the material on record.

7. In the present case, the prosecution principally relies on the alleged advance of Rs.50,00,000/- and the cheque allegedly issued by the applicant towards repayment. The cheque is undoubtedly relevant documentary material; however, mere issuance or dishonour of a cheque does not, in every case, conclusively establish the offence under Section 489-F P.P.C. The prosecution is required to establish that the cheque was issued dishonestly for repayment of a loan or the fulfilment of an existing obligation. Whether the cheque in question was in fact issued by the applicant for the alleged loan transaction, and whether the essential ingredients of Section 489-F P.P.C. are ultimately attracted, are matters for determination on the basis of evidence.

8. The record further reflects certain circumstances that cannot be ignored at the bail stage. The parties are close relatives. The applicant has taken a specific stance that certain cheques had gone missing from his possession and that he had taken steps in relation to his bank account. The record also contains bank documents relating to the status of the account and the dishonour of the cheque. The effect and evidentiary value of these documents, as well as the circumstances in which the cheque came into possession of the complainant, require proper examination during the investigation and trial and cannot appropriately be conclusively determined at this stage.

9. The alleged transaction involves a substantial sum of Rs.50,00,000/-. However, the prosecution version, as presently available, appears to be supported by no written agreement or other contemporaneous document evidencing the alleged loan transaction. The complainant has also not, in the F.I.R., furnished complete particulars concerning the alleged sale of the plot from which the amount was purportedly arranged. These aspects, by

themselves, may not demolish the prosecution case, but they do create circumstances that call for further inquiry into the nature of the underlying transaction and the alleged obligation for which the cheque was issued.

10. It is also relevant that the offence under Section 489-F P.P.C. does not fall within the prohibitory clause of Section 497 Cr.P.C. Although this circumstance alone is not sufficient to grant pre-arrest bail as a matter of right, it remains a relevant consideration when assessed cumulatively with the other circumstances appearing on the record. The superior Courts have consistently held that the mere dishonour of a cheque, in isolation, is not sufficient to establish criminal liability under Section 489-F P.P.C.; the requisite dishonest intention and the existence of a loan or other obligation have to be established in accordance with law.

11. It is a settled principle of law that the grant of bail is the rule, and its refusal is the exception. Reliance is placed on the case of Abdul Saboor v. The State through A.G. Khyber Pakhtunkhwa and another (2022 SCMR 592), wherein it has been held as under:-

> *"As per the contents of the crime report, the petitioner was running a business of poultry; he borrowed some amount from the complainant and to settle the same, he issued the cheque in question to the complainant, which has been dishonored. It is an admitted position that the petitioner is behind the bars for the last six and half months whereas the maximum punishment provided under the statute for the offence under section 489-F, P.P.C. is three years and the offence 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. This Court in Muhammad Tanveer v. The State and another (PLD 2017 SC 733) has held that "once this Court has held in categorical terms that grant of bail in offences not falling within the prohibitory limb of section 497, Cr.P.C. shall be a rule and refusal shall be an exception then the Courts of the country should follow this principle in its letter and spirit because principles of law enunciated by this Court are constitutionally binding on all Courts throughout the country including the Special Tribunals and Special Courts." Prima facie section 489-F of P.P.C. is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. It is only to determine the guilt of a criminal act and award of a sentence, fine or both as provided under section 489-F, P.P.C. On the other hand, for recovery of any amount, civil proceedings provide remedies, inter alia, under Order XXXVII of C.P.C. At this stage, only a tentative assessment of the matter is required and we cannot*

> *presume dishonesty on the part of the petitioner as any such determination would prejudice his right to a fair trial guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. Liberty of a person is a precious right which cannot be taken away without exceptional foundations. The law is very liberal especially when it is salutary principle of law that the offences which do not fall within the prohibitory clause, the grant of bail is a rule while its refusal is mere an exception."*

12. It is further noted that the applicant has been admitted to interim pre-arrest bail by this Court and has been directed to join the investigation. No material has been brought on record at this stage to establish that, during the period of interim bail, he has misused the concession, attempted to abscond, tampered with the prosecution evidence, or otherwise obstructed the course of the investigation. In the circumstances, his custodial arrest does not appear necessary for further investigation.

13. Taking into consideration the entire material on record, the nature of the allegation, the documentary character of the controversy, the relationship between the parties, the circumstances surrounding the alleged cheque transaction, and the fact that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C., I am of the tentative view that the case of the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C. The applicant has, therefore, made out a case for confirmation of the interim pre-arrest bail.

14. Consequently, this criminal bail application is allowed. The interim pre-arrest bail already granted to the applicant, Rashid Ali, son of Ghulam Muhammad Lakhan, vide order dated 19.06.2026, is hereby confirmed, subject to his furnishing an enhanced solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand) and a P.R. bond in the like amount to the satisfaction of the Additional Registrar of this Court, in lieu of the surety already furnished in the sum of Rs.50,000/-. The applicant shall continue to join the investigation and attend the learned trial Court on each and every date of hearing, in accordance with law.

15. Needless to say, the observations made hereinabove are tentative in nature and have been made solely for the purpose of deciding the present bail application. The same shall not prejudice either party nor influence the learned trial Court in deciding the case on its merits.

JUDGE

Naveed Ali