

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

Applicant:- Gohar Ullah s/o Inayat Ullah ...

Vs

Respondent:- The State ...

SINDHI HIGH COURT KARACHI

Composition of Bench. SB:- Justice Tasneem Sultana.

Dates of hearing (:) 25-06-2025

Decided on (:) 15-07-2025

(a) Judgment approved for Reporting.

Yes ✓

No



JUDGE

CERTIFICATE

Certified that the judgment \*/ Order is based upon or enunciates a principle of law \*/ decides a question of law which is of first impression/ distinguishes/over-rules/reverses/explains a previous decision.

*Mailew Bano*  
*23/07/25*

\*Strike out whichever is not applicable.

- NOTE: --
- (i) This slip is only to be used when some action is to be taken.
  - (ii) If the slip is used, the Reader must attach it to the top of the first page of the judgment.
  - (iii) Reader must ask the Judge writing the Judgment whether the Judgment is approved for reporting.
  - (iv) Those directions which are not to be used should be deleted



①

**IN THE HIGH COURT OF SINDH AT KARACHI.**

Bail Application No. 684 of 2025

PRESENTED ON  
14.08.2025



Gohar Ullah S/o Inayat Ullah Berkat  
Muslim, adult R/o House No.389,  
Unit No.3, Latifabad, Hyderabad.  
At Present Karachi.

*Tahir*

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Applicant/ Accused.

Versus

The State.....Respondents

FIR No. 343/2020

U/S 489-F, 420/34 PPC

P.S. Preedy Karachi.

**BAIL APPLICATION U/S 498 Cr.P.C.**

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**ORDER SHEET  
IN THE HIGH COURT OF SINDH KARACHI**

**Criminal Bail Application No.674 of 2025**

Date \_\_\_\_\_ Order with Signature of Judge \_\_\_\_\_

Applicant : Gohar Ullah, through M/s. Zahid Ali Maitlo & Abdul Majeed Khoso, Advocates.

Respondent : The State through Sardar Ali Solangi, D.P.G.

Complainant : Zulfiqar Ahmed, through Mr. Abbadul Hasnain, Advocate.

Date of hearing : 25.06.2025

Date of order : 15.07.2025

**ORDER**

**Tasneem Sultana, J:-** Through this Bail Application, applicant, namely, Gohar Ullah, has sought pre-arrest bail in FIR No.343/2020 under Sections 489-F, 420 and 34 PPC registered at Preedy Police Station, Karachi. Earlier, bail application of the applicant was turned down by the learned District and Sessions Judge, Karachi South, vide order dated 05.03.2022 whereafter the applicant was admitted to interim pre-arrest bail by this Court vide order dated 16.03.2022 passed in Cr. Bail Application No.515 of 2022. However, later as the applicant remained absent, the said bail application was dismissed for non-prosecution vide order dated 12.09.2022. Subsequently, the applicant moved another bail application bearing No.2041 of 2022 and was again admitted to interim pre-arrest bail vide order dated 19.10.2022. This bail application was dismissed as not pressed vide order dated 01.12.2022 as the applicant was convicted in another case. However, after his release, he appeared before the Court.

2. Precisely, the facts relevant to the disposal of the instant criminal bail application are that in the year 2007, the complainant supplied plastic shopping bags (thailies) to M/s. Fateh Group Limited, against which the company issued Cheques in the year 2009. However, these cheques were dishonoured. As a result, the complainant lodged four FIRs, which were registered in the year 2009 at Police Station SITE, Karachi. At the time of a compromise, the applicant, being the Chairman of M/s. Fateh Group Limited, issued three Cheques bearing the signatures of the Company's Directors, namely Asadullah Barkat, Humayun Barkat, Maqsood Ahmed Khan, Muhammad Saleem, Abdul Razzak Memon, and Muhammad Ayub. Of these, one Cheque was encashed, while another Cheque No. 81138490

*Tasneem*

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for Rs. 300,000 was dishonored on 21.11.2019 due to insufficient funds, leading to the registration of the present FIR.

3. Learned Counsel for the applicant contended that the applicant has falsely been implicated in this case by the complainant with malafide intention and ulterior motives; that no specific role have been assigned to the applicant neither the applicant had issued Cheque to the complainant nor the signatory of subject Cheque and the complainant have not alleged the issuance Cheque by the applicant and section 489-F, PPC is not applicable against the applicant, however section 420 PPC is bailable and the ingredients of any mensrea or intention is to be proved at trial; that the applicant has paid all his liability to the tune of Rs.16,65,000.00 by means of a pay order in favour of the complainant, which facts was also mentioned in the order dated 01.12.2022 passed in Criminal Bail Application No. 2041 of 2022; that the alleged incident of dishonor of the cheque is stated to have taken place on 21.11.2019, however the instant FIR was lodged on 09.02.2020 with delay of about two and half months without plausible explanation; that the applicant is regularly appearing before Trial Court; that interim pre-arrest bail order dated 14.03.2025, may be confirmed. In support of his contentions, learned Counsel has relied upon following case laws :-

- i. 2019 YLR 650 (Sindh) (Mustafa Jamal Kazi Vs. NAB and others)
- ii. 2015 P.Cr.L.J. 1050 (Lahore) (Muhammad Ashraf Vs. The State)

4. The learned Counsel for the complainant contended that the applicant is nominated in FIR with specific role; that the applicant is habitual criminal and involved in several cases of similar nature; that the applicant issued subject cheque at the time of compromise in Criminal Case No.718/2010 before the learned II<sup>nd</sup> Judicial Magistrate, Karachi-West; that when the cheque was presented before the bank it was dishonoured; that the applicant issued subject cheque dishonestly, therefore, pre-arrest bail may be dismissed.

5. The learned A.P.G. Sindh for the State adopted the arguments advanced by the learned Counsel for complainant and further contended that sufficient prima facie material is available on the record, therefore, pre-arrest bail may be dismissed.

6. Heard. Record perused.

*J. J. J.*





A perusal of Section 489-F PPC reveals that the provisions will be attracted if the following conditions are fulfilled and proved by the prosecution:

- "(i) issuance of cheque;
- (ii) such issuance was with dishonest intention;
- (iii) the purpose of issuance of cheques should be:-
  - (a) to repay a loan; or
  - (b) to fulfil an obligation (which in wide term inter alia applicable to lawful agreements, contracts, services, promises by which one is bound or an act which binds person to some performance).
- (iv) on presentation, the cheque is dishonoured. However, a valid defence can be taken by the accused, if he proves that: ---
  - (i) he had made arrangements with his bank to ensure that the cheques would be honoured; and
  - (ii) that the bank was at fault in dishonoring the cheque."

7. To prove the charge against the accused under Section 489-F P.P.C., all ingredients of Section 489-F P.P.C. must be proved through cogent evidence and beyond any shadow of doubt. However, in this case the complainant claims that as result of compromise between both the parties in respect of earlier FIR(s) registered in the year 2009, the applicant issued three cheques bearing the signatures of Company's Directors, one cheque was encashed while another cheque No.81138490 amounting to Rs.300,000/- was dishonoured on 21.11.2021 due to insufficient funds, whereas the applicant has pleaded that subject cheque was not dishonoured due to insufficient funds and referred two letters of Operation Manager, Meezan Bank, SITE Area Branch, Hyderabad, dated 25.02.2020 and 07.03.2020 addressed to I.O. of present case and has contended that concerned officer of Meezan Bank, Gulbai Branch, SITE Area, Karachi, through email confirmed for cheque No.81138490 from Meezan Bank, Fateh Chowk Branch, SITE Area, Hyderabad, who informed "stamp was differ", therefore, cheque was returned with memo of "signature differ".

8. It reflects from the record that on 01.12.2022 in Criminal Bail Application No.2041 of 2022 the applicant handed over the original pay order bearing No.16018480469 amounting to Rs.16,65,000/- to the complainant before this Court. It also reflects that Operation Manager, Meezan Bank, Fateh Chowk Branch, SITE Area, Hyderabad, addressing to I.O. of this case explains that subject cheque was returned by Meezan Bank, Gulbai Branch, SITE Area, Karachi, with the comments "signature

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differ", however, this aspect of the case is to be determined by the trial Court after recording the evidence that what was the intention of the person, issuing it, so as tentative assessment, *prima facie*, it is a case of further inquiry.

9. It is worth noting that Section 489-F P.P.C. entails maximum punishment of three years and as such does not fall within the prohibitory clause of Section 497, Cr.P.C., whereas the offence under Section 420, P.P.C., is bailable, thereby making it a matter in which grant of bail is a rule and refusal is an exception as per *Shahzad vs. The State* (2023 SCMR 679), *Tariq Bashir and others vs. The State* (PLD 1995 S.C. 34) and *Muhammad Tanvir vs. State* (PLD 2017 S.C. 733).

10. At this stage it is important to note that Section 489-F PPC is not a provision that is intended by the legislature to be used for recovery of an alleged amount through the criminal case. It is only to determine the guilt of a criminal act and award of a sentence, fine or both is provided under Section 489-F P.P.C. For recovery of said amount, civil proceedings provide remedies, inter alia, under order XXXVII C.P.C.

Reliance is placed on case of *Nazir Ahmed alias Bhaga vs. The State* (2002 SCMR 1467) wherein Hon'ble Supreme Court of Pakistan observed as follows:

"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, rather for recovery of any amount, civil proceedings provide remedies, inter alia, under Order XXXVII of C.P.C."

11. In view of tentative assessment of the record discussed supra, the case of applicant requires further inquiry as provided under Section 497 (2) Cr.P.C. Accordingly, pre-arrest bail granted earlier to the applicant stands confirmed on the same terms and conditions.

12. Needless to mention that the views expressed hereinabove are tentative in nature and shall not prejudice the case of either party at the trial and in the meanwhile, if the applicant fails to appear before the trial Court, his Bail may be cancelled by the trial Court without obtaining any order from this Court.

The instant Bail Application stands disposed of in the above terms.

*J. Iqbal*  
15/7/2025  
JUDGE

*Amended by me*  
*M. Iqbal*  
15/7/2025

