THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2436 of 2025

Applicant	:	Muhammad Asad son of Muhammad Mujahid through Mr. Muhammad Wakeeluddin, Advocate
Complainant	:	Waqas Khan son of Sher Khan through Mr. Muhammad Kaleem Khan, Advocate
The State	:	Ms. Rubina Qadir, Additional Prosecutor General, Sindh
Date of hearing	:	12.11.2025
Date of decision	:	12.11.2025

O R D E R

Jan Ali Junejo, J.- Through this Criminal Bail Application under Section 497, Code of Criminal Procedure, 1898, the applicant seeks post-arrest bail in FIR No. 633/2025 registered at Police Station Taimoria, Karachi for offences under Sections 489-F and 420/34, Pakistan Penal Code, 1860. The applicant's earlier post-arrest bail was declined by:

> ***The learned II-Judicial Magistrate, Karachi Central, vide order dated 01.09.2025 in Bail Application No. 230/2025; and***
>
> ***The learned Additional Sessions Judge-VII/MCTC-02, Karachi Central, vide order dated 12.09.2025 in Bail Application No. 2068/2025.***

The applicant has now invoked the jurisdiction of this Court after arrest.

2. The complainant Waqas Khan alleges that for arranging overseas employment for his cousins, he paid: Rs.26,00,000/- to Applicant and an agreement was executed in writing from the Asad's side. Sharjeel Raza was witness; thereafter, remaining amount of Rs.14,00,000/- was also paid to the present Applicant, Muhammad Asad. Upon failure to procure visas, the applicant allegedly issued two cheques: Cheque No. 12011067 of Rs.7,00,000/- from his account at Bank AL Habib, Babar Market Branch; and Cheque No. 10394262 of Rs.13,00,000/- purportedly from the account of his partner, Sharjeel Raza, at Bank AL Habib, Khwaja Ajmeer Nagri Branch. Both cheques were dishonoured on presentation; bank return memos are available on record. The FIR was registered under Sections 489-F and 420/34 PPC.

3. The learned counsel for the applicant has argued that the applicant has been falsely implicated with mala fide intentions on account of personal enmity in connivance with the police. He submits that the trial courts wrongly relied upon the allegation of a “fake CNIC” without any verification from NADRA, whereas two different copies of the complainant’s CNIC bearing dissimilar signatures and features are on record, which alone calls for further inquiry. He contends that the actual dispute pertains to an altogether different transaction whereby the complainant, a neighbour allegedly employed in the DC Office Karachi Central, promised to secure a clerical job for the applicant against Rs.15,00,000/-, out of which Rs.8,00,000/- were paid on 08.02.2024; upon failure of the promise, Rs.4,00,000/- were returned and a so-called “guarantee/security” cheque was obtained through an Iqrarnama/Halafnama dated 01.06.2025 describing the cheque as *amanat*. He further argues that the complainant later entered the applicant’s house with armed persons and by coercion procured another cheque from the applicant’s brother, against which complaints were dispatched to higher authorities. He asserts that the applicant was kept in illegal custody for two days prior to his shown arrest and was not produced before the Magistrate within the stipulated time, compelling him to move an application under section 491 Cr.P.C. He further argues that no incriminating recovery such as passport, visa, forged documents or instruments of fraud has been effected from the applicant. He maintains that offences under sections 489-F and 420 PPC are non-prohibitory in nature, the maximum punishment under section 489-F being three years, therefore bail is the rule. He lastly submits that despite lapse of the statutory period, the challan has not been submitted and continued incarceration would serve no useful purpose; hence, *he prays for grant of bail to the applicant.*

4. The learned counsel for the Complainant *contends* that the applicant is specifically nominated in the FIR with a clear and direct role of issuing the dishonoured cheques, which stands corroborated through bank return memos. He further contends that the applicant has forged and fabricated CNICs, agreements and signatures, while all defence documents are disputed and suspicious. He also contends that if the applicant is released on bail, there is a strong likelihood that he may abscond or tamper with the prosecution evidence, thereby frustrating the course of justice; therefore, *he prays for dismissal of the bail application.*

5. The learned Additional Prosecutor General *argues* that the applicant is accused of deliberate issuance of dishonoured cheques and

fabrication of documents which constitute serious offences involving fraud and deceit. She submits that the investigation was incomplete at the time of earlier refusals of bail and custodial detention of the applicant is still required for a fair and effective investigation. She further argues that the likelihood of the applicant influencing witnesses and tampering with evidence cannot be ruled out at this stage; hence, *she also prays for dismissal of the bail application.*

6. I have heard the learned counsel for the parties at considerable length and have carefully perused the available record, including the FIR, bank return memos, defence documents (namely the agreement dated 08.02.2024 and the Iqrarnama/Halafnama dated 01.06.2025), copies of two CNICs of the complainant, complaints addressed to the authorities, as well as the orders passed by the courts below. For the present tentative assessment, the following aspects assume significance: (a) The alleged offences do not fall within the prohibitory clause. Section 489-F PPC is punishable with imprisonment which may extend to three years, while Section 420 PPC, though punishable up to seven years, is yet bailable in nature. Neither of the offences entails punishment of death, imprisonment for life, or imprisonment for ten years; hence, the case does not fall within the prohibitory clause of section 497(1) Cr.P.C. It is a well-settled principle, consistently upheld by the Honourable Supreme Court, that in non-prohibitory offences, grant of bail is a rule and refusal an exception, unless extraordinary circumstances exist, such as likelihood of abscondence, tampering with prosecution evidence, or misuse of the concession. Furthermore, the nature of the underlying liability remains disputed, and the essential ingredients of section 489-F PPC prima facie call for further inquiry. In case 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".

7. The defence has placed on record an agreement dated 08.02.2024, reflecting payment of Rs. 8,00,000/- by the applicant to the complainant, ostensibly for job placement, as well as an Iqrarnama/Halafnama dated 01.06.2025 describing the cheque in question as having been issued by way of "security/amanat". Whether the impugned cheques were issued in discharge of a legally enforceable debt or liability, or merely as a security/guarantee not giving rise to an immediate enforceable obligation, is a question of fact to be determined at trial upon proper appreciation of evidence. The Honourable Supreme Court has consistently held that mere issuance and subsequent dishonour of a cheque, by itself, is not sufficient to constitute an offence under Section 489-F PPC unless it is prima facie established that the cheque was issued towards repayment of a loan or in fulfilment of a legally enforceable obligation. This legal position, in the circumstances of the present case, by itself brings the matter within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C.

8. It is one of the defence grounds that two different copies of the complainant's CNIC, bearing the same number but reflecting different signatures and printing features, are on record. No verification from NADRA or any other competent authority has, as yet, been produced by the prosecution to conclusively establish which CNIC is genuine or to attribute any fabrication to the applicant. In the absence of such forensic or NADRA verification, the allegation of fabrication remains unsubstantiated at this stage and, rather, lends support to the plea of further inquiry. Moreover, no incriminating recovery whatsoever, such as passports, visas, forged instruments, or other tools allegedly used for fraud, has been effected from the applicant. The case predominantly hinges upon documentary material already in the possession of the parties and bank records accessible through normal banking channels and the Investigating Officer; thus, continued custody of the applicant is not shown to be necessary for further investigation. The accused is presumed innocent unless proven guilty, and bail cannot be withheld as a measure

of punishment or as a matter of course in non-prohibitory offences in the absence of exceptional circumstances. The learned courts below primarily relied upon the existence of dishonoured cheques and unverified allegations relating to forged CNICs/documents. In view of the conflicting material now brought on record and the settled parameters governing the grant of bail in non-prohibitory offences, the matter, in my tentative view, squarely falls within the domain of further inquiry.

9. In view of the foregoing, and without dilating upon the merits of the case, the cumulative factors, non-prohibitory nature of the alleged offences; disputed substratum of the underlying liability; unverified CNIC/document discrepancies; absence of incriminating recovery; delay in submission of challan; and the governing principle that bail is the rule in non-prohibitory offences, persuade this Court that the applicant has made out a case calling for further inquiry under Section 497(2) Cr.P.C. He is, therefore, entitled to the concession of post-arrest bail.

10. For these reasons, the present Criminal Bail Application is allowed. The applicant/accused, Muhammad Asad S/o. Muhammad Mujahid, is admitted to post-arrest bail subject to the following: Furnishing solvent surety in the sum of Rs. 200,000/- (Rupees Two Hundred Thousand only) and a personal recognizance bond in the like amount to the satisfaction of the learned trial Court.

11. 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. These are the detailed reasons of the Short Order dated: 12-11-2025.

JUDGE

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