

ORDER SHEET  
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No.S-239 of 2025  
(*Amjad Hussain Sahito Vs. The State*)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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**Hearing of post-arrest bail**

- 1. For orders on office objections at flag ‘A’
- 2. For hearing of bail application.

**ORDER.**  
05-05-2025.

M/s Syed Israr Ahmed Shah and Mujeeb-ur-Rehman Malano Advocates  
for the applicant/accused.

Mr. Hubdar Ali Bhutto, advocate for complainant.

Mr. Khalil Ahmed Maitlo, Deputy P.G for the State.

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**Ali Haider ‘Ada’,J:-** Through this application, applicant Amjad Hussain son of Allah Wadhayo by caste Sahito seeks his post arrest bail in Crime No. 18/2025, registered under Section 489-F PPC, at Police Station Kumb. The said FIR was lodged by the complainant, Jamsher Ali. Prior to filing the instant application, the applicant had approached the learned Sessions Judge Khairpur for relief of post-arrest bail, who transferred the same to the learned IInd Additional Sessions Judge Khairpur; however, his application for grant post-arrest bail was declined vide order dated 20-02-2025.

2. The essence of the prosecution case is that the complainant and the accused/applicant were engaged in cattle business and monetary transactions were taking place between them. On 25-11-2024, the complainant, along with his witnesses, allegedly settled accounts with the accused, wherein an amount of Rs. 8,500,000/- was found outstanding against the accused. In consideration thereof,

the accused issued a cheque dated 25-12-2024. However, upon presentation, the said cheque was dishonored and the bank authorities issued a dishonor memo dated 04-01-2025. Consequently, the complainant lodged the FIR on 27-01-2025.

3. Learned counsel for the applicant submits that the complainant himself has admitted to the existence of a business relationship between the parties and the alleged cheque was misused by the complainant, as it was originally handed over to one Jameel Ahmed, who subsequently forwarded it to the complainant. He further contends that there is an unexplained delay of more than one month in the registration of the FIR and even the cheque was presented to the Bank after a delay of more than a week. It is argued that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C and the applicant is no longer required for any further investigation, as the challan has already been submitted. The learned counsel submits that the applicant has been falsely implicated and is unnecessarily incarcerated. Therefore, as a matter of grace and in the interest of justice, he prays for the grant of post-arrest bail. In support of his contention, reliance is placed upon *Abdul Saboor v. The State* (2022 SCMR 592) and *Riaz Jafar Natiq v. Muhammad Nadeem Dar* (2011 SCMR 1708).

4. On the other hand, learned counsel for the complainant opposes the bail application and contends that the applicant is directly involved in the commission of the alleged offence. He submits that a cheque amounting to Rs. 8,500,000/- was issued by the applicant in favour of the complainant and that the applicant had also executed an agreement (Iqrar Nama), wherein he expressly acknowledged the outstanding liability and undertook to repay the said amount through the cheque in question, which is specifically mentioned in the agreement. During the course of arguments, the learned counsel produced the said

agreement in support of his contention. In support of his arguments, reliance is placed upon 2019 P.Cr.L.J 1759, 2016 YLR 2629, 2017 YLR 694, 2011 YLR 1284, and 2010 P.Cr.L.J 504.

5. Learned Deputy Prosecutor General opposes the bail application and contends that the applicant is prima facie connected with the commission of the offence, which amounts to a financial murder of the complainant. Therefore, he is not entitled to the concession of bail.

6. Heard arguments and perused the material available on record.

7. Upon careful examination of the record, it is revealed that as per contents of the FIR, the complainant allegedly settled accounts with the applicant on 25-11-2024 in the presence of witnesses, where-after the applicant issued a cheque towards the outstanding liability. This narration is further corroborated by the agreement (Iqrar Nama) produced by learned counsel for the complainant, wherein it is recorded that the applicant acknowledged the settlement of accounts on 25-11-2024 and undertook to discharge the liability of Rs. 8,500,000/- through the issuance of a cheque. However, it is noteworthy and somewhat questionable that the Iqrar Nama was issued on a stamp paper not in the name of the applicant but rather in the name of the complainant, raising doubts regarding its origin and authenticity. Furthermore, the date of the said agreement is reflected as 20-11-2024, which predates the purported date of the account settlement, i.e., 25-11-2024, claimed by the prosecution. This inconsistency casts serious doubt on the credibility of the prosecution version and the genuineness of the document in question. In such circumstances, where material contradictions exist and the authenticity of crucial evidence is in question, the benefit must necessarily go to the accused even at bail stage. It is a cardinal principle of criminal jurisprudence that "*in dubio pro reo*"—when in

*doubt, the accused is to be favored.* It is a well-settled principle of criminal jurisprudence that the benefit of doubt, no matter how slight, must be extended to the accused, not only at the stage of final adjudication but also at the bail stage. Where the prosecution case appears to be doubtful or calls for further inquiry under Section 497(2) Cr.P.C, the accused becomes entitled to the concession of bail. The law does not require absolute certainty at the bail stage; rather, if there is a reasonable doubt as to the guilt of the accused, the benefit thereof must be given in favour of liberty. This legal wisdom has been consistently upheld by Honourable Apex Court in the cases of *Salman Zahid vs The State through PG Sindh, 2023 SCMR 1140*, *Fahad Hussain vs The State 2023 SCMR 364*, *Muhammad Eijaz Vs The State 2022 SCMR 1271* and *Muhammad Arshad vs The State 2022 SCMR 1555*.

8. Furthermore, there is an unexplained delay of approximately one month in the registration of the FIR, calculated from the date of issuance of the alleged cheque. Such inordinate delay, without any plausible justification, creates a presumption of deliberation and raises serious doubts regarding the veracity of the prosecution case. This delay, when viewed in conjunction with the temporal gap between the date of the cheque and the issuance of the dishonor memo, which in the present case is around nine days, further strengthens the possibility of false implication. The cumulative effect of these delays suggests that the prosecution case may have been engineered after due deliberation. In this regard, reliance is placed upon the case of *Kabeer Ahmed Brohi vs The State reported as 2025 MLD 364*, wherein it has been held that unexplained delay in lodging the FIR in cheque dishonor cases materially affects the prosecution stance and entitles the accused to the concession of bail.

9. It is pertinent to note that the offence under Section 489-F PPC, which provides a maximum punishment of three years, thereby not attracting the prohibitory clause of Section 497(1) Cr.P.C. It is a settled principle of law that when the offence does not fall within the prohibitory clause, the grant of bail is a rule and refusal is an exception. In cases involving the issuance of cheques, the Honourable Superior Courts have consistently extended the concession of bail. Reliance in this regard is placed upon the judgments rendered in *Muhammad Nasir Shafique vs The State* (2021 SCMR 2092), *Bilal Iqbal vs The State* (2025 MLD 373), *Abdul Saboor vs The State* (2022 SCMR 592), and *Riaz Jafar Natiq vs Muhammad Nadeem Dar and others* (2011 SCMR 1708), wherein bail was granted in similar circumstances.

10. In view of the foregoing reasons, the applicant/accused named above makes out a case for grant of post arrest Bail. Accordingly, the Bail Application is allowed and applicant/named above is admitted to post arrest Bail subject to furnishing his solvent surety in the sum of Rs. 100,000/- (One lac) and P.R Bond in the like amount to the satisfaction of Learned trial Court.

11. Needless to mention that the observation made hereinabove are tentative in nature and shall not prejudice the case of either party at the time of trial.

**J U D G E**

*Ihsan/PS.*