

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2867 of 2025

Applicant : Arbab Muhammad Deen Memon,
Through: Mr. Abdul Qadeer Mirjat,
Advocate.

Complainant : Mahesh Kumar Hasija, Through: Mr.
Zaheer Hussain, advocate.

The State : The State: Through: Ms. Seema Zaidi,
Additional Prosecutor General,
Sindh

Date of hearing : 09.03.2026

Date of Order : 09.03.2026

ORDER

Jan Ali Junejo, J:-- Through this order, I intend to decide the instant post-arrest bail application filed by the applicant/accused namely Arbab Muhammad Din Memon, who has been booked in FIR No. 27/2025 under Section 489-F, PPC, registered at Police Station Gizri, Karachi South. Earlier, his bail applications were declined by the learned trial Court i.e. MTMC/ XVth Judicial Magistrate Karachi South as well as learned Additional Sessions Judge-IX, Karachi South *vide* Orders dated 25.07.2025 and 06.08.2025, respectively.

2. Briefly, as per contents of an FIR, the Complainant being a sitting Member of Provincial Assembly (MPA) is engaged in the construction business and entered into a joint venture/construction agreement with the applicant for development of a project at Hyderabad. In pursuance thereof, the applicant allegedly issued a cheque amounting to Rs.100,000,000/-(Rupees One Hundred Million) in favour of the complainant, which upon presentation on 06.01.2023 was dishonoured due to insufficient funds. It is further

alleged that despite assurances, the applicant failed to make payment, avoided contact, and ultimately, the FIR was lodged on 18.01.2025.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in this case due to mala fide intentions arising out of a business dispute. He argued that the matter pertains to a purely civil dispute stemming from a joint venture agreement, for which civil suits are already pending between the parties. It was further contended that the essential ingredient of Section 489-F PPC, i.e., issuance of cheque in discharge of a legally enforceable debt or liability, is missing. Learned counsel emphasized the unexplained delay of about two years in lodging the FIR, which makes the prosecution case doubtful. He further submitted that investigation has been completed, challan has been submitted, and no useful purpose would be served by keeping the applicant behind bars. It was thus prayed that the applicant be admitted to post-arrest bail.

4. Conversely, learned counsel for the complainant strongly opposed the bail application and argued that the applicant had issued the cheque voluntarily in discharge of his liability arising out of a business transaction, which was dishonoured due to insufficient funds. He contended that the applicant acted with dishonest intention and attempted to deceive the complainant involving a huge amount. It was further argued that the applicant failed to make payment despite repeated assurances and is not entitled to the concession of bail. He prayed for dismissal of the bail application.

5. Learned Addl. Prosecutor General for the State also opposed the grant of bail and submitted that sufficient material is available on record connecting the applicant with commission of the offence. She contended that the cheque was dishonoured due to insufficient funds, which prima facie reflects dishonest intention on the part of the applicant. She further argued that the offence involves a substantial amount and the conduct of the applicant disentitles him from the concession of bail. She prayed for dismissal of the bail application.

6. I have considered the arguments advanced by the learned counsel for the parties and perused the available record with their assistance. At the outset, it is noted that the case of the prosecution rests upon a business transaction arising out of a joint venture agreement between the parties. Admittedly, civil litigation is pending between the parties regarding the same subject matter, and documents placed on record prima facie suggest that disputes of financial nature exist between them. It is also significant that the cheque in question was allegedly dishonoured on 06.01.2023, whereas the FIR was lodged on 18.01.2025, after a considerable and unexplained delay of about two years. Such delay, in absence of convincing explanation, prima facie creates doubt regarding the prosecution story and indicates that the criminal proceedings may have been initiated as an afterthought. Furthermore, the record reflects that substantial payments were allegedly made by the applicant to the complainant in connection with the project, and the nature of the transaction appears to be predominantly civil. Whether

the cheque was issued in discharge of a legally enforceable liability or otherwise is a question which requires deeper appreciation of evidence and can only be determined at trial.

7. It is also pertinent that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. The settled principle of law is that in such cases, bail is to be granted as a rule and refusal is an exception, unless exceptional circumstances are shown. 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”.

8. Moreover, the investigation in the present case has already been completed and the challan has been submitted before the learned trial Court. Therefore, further incarceration of the applicant would serve no useful purpose and would amount to pre-trial punishment. Without going into the depth of the prosecution evidence, the circumstances discussed above make out a case of further inquiry within the meaning of Section 497(2), Cr.P.C.

9. For the foregoing reasons, the instant bail application is allowed. The applicant, namely Arbab Muhammad Din Memon, is admitted to post-arrest bail in FIR No. 27/2025 under Section 489-F PPC, registered at Police Station Gizri, Karachi South, subject to furnishing solvent surety in the sum of Rs.500,000/- (Rupees Five Lacs only) and PR bond in the like amount to the satisfaction of the learned trial Court. It is, however, clarified that all observations hereinabove are purely tentative and confined to the adjudication of the present bail application. Nothing stated in this Order shall be construed as an opinion on the merits of the case, and the trial Court shall proceed independently, uninfluenced by any observations contained herein. These are the detailed reasons for the short order dated 09.03.2026.

JUDGE