IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1454 of 2026

Applicant	:	Muhammad Munir Awan son of Bashir Ahmed Awan Through M/s. Munir Ahmed Malik, Abdul Ghaffar Kalwar, Harchand Rai, Ghulam Murtaza, Dr. Imtiaz Ali Malik, Mehwish Rafiq and Waqar Ahmed, advocates
Complainant	:	Muhammad Rafiq Son of Allah Rakha Through; Mr. Zahid Hussain Soomro, advocate
The State	:	The State: Through Mr. Sharafuddin Kanhar, APG.
Date of hearing	:	20.08.2026.
Date of Order	:	27.08.2026.

O R D E R

Jan Ali Junejo, J:- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant namely Muhammad Munir Awan son of Bashir Ahmed Awan, who seek his release on bail in connection with FIR No.146 of 2026 registered at Police Station Korangi Industrial Area, Karachi for the offences punishable under Sections 489-F/408/109/34 PPC. The applicant has approached this Court being aggrieved by the order dated 10.04.2026 passed by the learned Additional Sessions Judge-XII, Karachi East whereby his bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that the complainant Muhammad Rafiq, who is serving as Import/Export Manager of **M/s. Sohail International**, situated at Gulzar Colony, Karachi Industrial Area, alleged that an audit of the company's accounts revealed serious financial irregularities and large-scale misappropriation. During scrutiny of the record, it transpired that the company's accountant, **Munir Ahmed Awan**, had allegedly embezzled substantial amounts by transferring company funds into his own bank account as well as into the account of his wife, **Mst. Zara Khan**, and that the accused persons had allegedly acquired flats and a garage from the misappropriated funds. Upon being confronted with the relevant record, Munir Ahmed Awan allegedly admitted the misappropriation in writing and undertook to repay the amount to the company. In furtherance thereof, he issued **20 cheques**, each valuing **Rs.5,000,000/-**, amounting in aggregate to **Rs.100,000,000/- (Rs.10 Crore)** from his account maintained at UBL, KIA Branch. However, when the said cheques were presented for encashment, they were dishonoured on account of insufficient funds and stop-payment instructions. It was further alleged that Munir Ahmed Awan and his wife, Mst. Zara Khan, had entered into an agreement with the company on **04.06.2025**, whereby they undertook to clear the outstanding liability within three to four months, including by selling their flats and other assets; however, they failed to fulfill their commitments. Hence, alleging criminal breach of trust, misappropriation and other cognizable offences, the complainant sought legal action against the accused persons, leading to the registration of the instant FIR.

3. Learned counsel for the applicant/accused submits that the applicant is innocent and has been falsely implicated with mala fide intentions. He contends that the applicant has specifically denied the alleged misappropriation, the issuance of the subject cheques, and the existence of any liability towards the complainant, while the bank report allegedly reflects a discrepancy in the signatures appearing on the cheques. Learned counsel further submits that the applicant had served M/s. Sohail International for approximately 22 years without any previous complaint, inquiry, or allegation of misappropriation, and that

the complainant has failed to produce any cogent documentary evidence establishing the alleged embezzlement. It is further contended that the cheques and documents, including the alleged Iqrar Nama/settlement deed, have been misused or forged and that the investigation was conducted in a biased manner, as the applicant's signatures were allegedly obtained on blank paper and subsequently misused. He further argues that civil litigation between the parties is already pending, the FIR was lodged after an unexplained delay, and the matter requires further inquiry. Learned counsel also submits that the alleged offence does not fall within the prohibitory clause, that proceedings under Section 489-F, P.P.C. cannot be used merely as a tool for recovery of an alleged amount, and that the learned trial Court failed to properly appreciate the material available on record while declining post-arrest bail to the applicant. He, therefore, prays for the grant of bail to the applicant. In support of his arguments, learned counsel for the applicant relied upon the case laws reported in 2012 YLR 930 [Re. Malik Safdar Ali Khan Vs. The State & another], 2024 MLD 1363 [Lahore] [Re. Syed Muhammad Ali Vs. The State & another], 2016 P.Cr.L.J Note 57 [Re. Arif Iqbal Vs. The State], 2023 SCMR 2122 [Re. Noman Khaliq Vs. The State & another], 2025 SCMR 1955 [Re. Aqeel Ahmed Khan Vs. The State & another] , 2025 YLR 1368 [Re. Muhammad Awais Qarni Vs. The State & Ors], 2021 P.Cr.L.J 1549 [Re. Shah Zain & 2 Ors Vs. Jameel ur Rehman and 2 others] & 2012 YLR 1792 [Re. Nadeem Anjum Vs. The State & another].

4. Learned counsel for the complainant vehemently opposed the grant of bail and submitted that the learned trial court had rightly dismissed the bail application filed on behalf of the accused. He further argued that no ground is taken in addition to filing an instant bail application and it is 100% the same as filed before the learned trial court and decided on merits. He further submitted that the applicant/accused was the Accountant of the company and managed all the affairs relating to accounts of the company, but he fraudulently committed embezzlement of funds, cheating and misappropriation. He further submitted that the present applicant/accused has already confessed the commission of the offense in collusion with his wife before the owners of the company as well as I.O. and such Iqrarnama is available on record. He further submitted that the challan has been submitted and if the

applicant/accused is released on bail there is a likelihood of tampering with the prosecution evidence. He lastly prayed that the applicant/accused is not entitled to the concession of bail, therefore, the bail application may be dismissed. In support of his arguments, he relied on the cases of reported as 2021 P.Cr.L.J [Sindh] [Re. Syed Zahoor ul Hassan Shah Vs. The State], 2024 P.Cr.L.J 1364 [Lahore] [Re. Azeemuddin Vs. Feroze Khan & another], 2009 SCMR 174 [Re. Shameel Ahmed Vs. The State], 2019 SCMR 1129 [Re. Rana Abdul Khaliq Vs. The State & Ors], 2021 SCMR 827 [Re. Shahid Sultan Durrani Vs. The State & Ors], 2022 SCMR 2040 [Re. Malik Muhammad Tahir Vs. The State & another], 2024 SCMR 1719 [Re. Azhar Pervaiz Bukhari Vs. The State & another], 2005 YLR 686 [Lahore] [Re. Unilever Pakistan Ltd. Vs. Muhammad Rafique], 2008 YLR 1563 [Lahore] [Re. Ehsanullah Vs. The State], 2011 MLD 1288 [Karachi] [Re. Muhammad Khan Vs. The State], 2011 P.Cr.L.J [Karachi] [Re. Abdul Zahoor Khan Vs. The State], 2017 MLD 1383 [Re. Muhammad Ilyas Vs. The State], 2023 P.Cr.L.J 398 [Peshawar] [Re. Farman Hussain Vs. The State] and 2025 P.Cr.L.J 602 [Re. Obaid Khan Vs. The State & another]

5. The learned APG appearing on behalf of the State fully adopted the submissions advanced by the learned counsel for the complainant. He also opposed the grant of bail to the applicant, asserting that sufficient material has been collected during investigation connecting the accused with the offence, and thus, the case does not fall within the ambit of further inquiry.

6. I have heard the learned counsel for the applicant, learned counsel for the complainant and learned APG for the State and have carefully examined the available record with their able assistance.

7. At the bail stage, a deeper appreciation of the evidence is to be eschewed, and the material available on record is required to be assessed only tentatively for determining whether there exist reasonable grounds for believing that the accused is guilty of the offences alleged against him or whether the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

8. The prosecution case, as reflected in the FIR and the material collected during the investigation, is that the applicant, while serving as

an Accountant of M/s. Sohail International, allegedly committed criminal breach of trust and misappropriated substantial funds of the company by transferring the same into his own account and the account of his wife. The prosecution further alleges that, upon being confronted with the alleged discrepancies, the applicant acknowledged his liability and issued twenty cheques of Rs.5,000,000/- each, amounting in aggregate to Rs.100,000,000/-, towards repayment of the alleged outstanding amount. The said cheques were allegedly dishonoured upon their presentation. The prosecution has also relied upon an alleged *Iqrar Nama* and settlement/agreement dated 04.06.2025.

9. However, the applicant has specifically disputed the entire foundation of the prosecution case. He has denied the alleged misappropriation, the issuance of the disputed cheques, the alleged liability, and the execution of the *Iqrar Nama*/settlement deed. It is also the specific case of the applicant that his signatures were obtained on blank papers and were subsequently misused and that there exists a discrepancy regarding the signatures appearing on the disputed cheques. The applicant has further questioned the genuineness and evidentiary value of the documents relied upon by the prosecution. Whether the disputed cheques were actually issued by the applicant, whether the signatures appearing thereon are genuine, and whether the alleged *Iqrar Nama* and settlement deed were voluntarily executed are disputed questions of fact which cannot be conclusively determined at the bail stage and would require recording and proper appreciation of evidence by the learned trial Court.

10. It is further to be noted that the applicant had admittedly served the complainant company for a considerable period, stated to be approximately twenty-two years, and, according to the defence, no previous complaint, inquiry, or allegation of misappropriation was ever initiated against him during such period. The precise nature and extent of the alleged entrustment, the exact amount allegedly misappropriated, and the manner in which the alleged misappropriation was committed would necessarily require examination of the relevant accounts, banking record, and other documentary evidence during the trial. These matters, in the peculiar facts and circumstances of the case, require deeper appreciation of evidence, which is not permissible at the bail stage.

11. Section 408, P.P.C. pertains to criminal breach of trust committed by a clerk or servant. The foundational definition of criminal breach of trust is provided under Section 405, P.P.C., which occurs when a person entrusted with property, or having dominion over it, dishonestly misappropriates or converts the property to their own use, or dishonestly uses or disposes of it in violation of any legal direction or contractual obligation. A perusal of the FIR reveals that the allegation against the applicant is that while serving as an accountant he allegedly misappropriated certain funds. However, the mere allegation of misappropriation is not, by itself, sufficient to conclusively establish the applicability of Section 408 PPC unless the prosecution is able to establish the essential ingredients of the said offence through cogent and legally admissible evidence. In this regard, the FIR does not disclose specific and definite particulars concerning the alleged misappropriation, including the exact amount of funds allegedly misappropriated by the applicant, the relevant transactions, or the time, place, manner, and circumstances in which the alleged misappropriation was committed. Whether the funds were entrusted to the applicant in his capacity as an accountant, whether he had dominion or control over the same, and whether he subsequently dishonestly misappropriated such funds are matters requiring proper scrutiny and appreciation of the evidence. These questions cannot be conclusively determined merely on the basis of the allegations contained in the FIR and would require examination of the relevant documentary evidence, accounts, and testimony of the witnesses. Such an exercise primarily falls within the domain of the learned trial Court, which shall determine the matter after recording and properly appreciating the evidence produced by the respective parties. At this stage, therefore, the applicability of Section 408, PPC cannot be conclusively determined, as the matter requires further inquiry and involves disputed questions of fact requiring evidence for their resolution. Consequently, these factual and evidentiary aspects cannot be given a final determination at the bail stage and are subject to adjudication by the learned trial Court during the course of trial.

12. So far as the allegations relating to Section 489-F, P.P.C. are concerned, the prosecution has relied upon the alleged dishonoured cheques said to have been issued by the applicant towards repayment of the alleged misappropriated amount. However, the applicant has

categorically denied the issuance of the cheques as well as the existence of any legally enforceable obligation. Thus, the question whether the disputed cheques were actually issued by the applicant towards repayment of an existing obligation, as contemplated under Section 489-F, P.P.C., or whether the cheques and the underlying documents were subsequently misused, is a matter requiring evidence and cannot be conclusively determined at this tentative stage.

13. The alleged transaction between the parties is also intertwined with disputed financial and civil obligations. Whether the applicant had actually misappropriated the alleged amount and subsequently issued the disputed cheques in discharge of a legally enforceable obligation are questions which can only be properly resolved after the prosecution and defence lead their respective evidence before the learned trial Court.

14. In this regard, guidance may be sought from the judgment of the Honourable Supreme Court of Pakistan in **Ali Anwar Paracha v. The State and another (2024 SCMR 1596)**, wherein, while dealing with an offence under Section 489-F, P.P.C., it was observed that the question whether a cheque was issued towards fulfilment of an obligation within the meaning of Section 489-F, P.P.C., is a matter to be resolved by the learned trial Court after recording evidence. The Honourable Supreme Court further observed that the maximum punishment provided for an offence under Section 489-F, P.P.C., is three years and that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., and that grant of bail in offences falling outside the prohibitory clause is the rule whereas refusal is an exception.

15. Similarly, in **Muhammad Anwar v. The State and another (2024 SCMR 1567)**, the Honourable Supreme Court observed that the question whether the disputed cheques were issued towards repayment of a loan or fulfillment of an obligation within the meaning of Section 489-F, P.P.C., was a matter to be resolved by the learned trial Court after recording evidence. It was further observed that an offence under Section 489-F, P.P.C., does not fall within the prohibitory clause of Section 497, Cr.P.C., and, therefore, the settled principle regarding grant of bail in non-prohibitory offences would apply.

16. The alleged *Iqrar Nama* and settlement/agreement relied upon by the prosecution are also seriously disputed by the applicant. The voluntariness, authenticity, execution, and evidentiary value of such documents cannot be finally determined without recording evidence. Likewise, the alleged confession before the owners of the company or during the investigation is a matter whose evidentiary worth is required to be examined by the learned trial Court in accordance with law.

17. The offences alleged against the applicant, particularly under Section 489-F, P.P.C., do not fall within the prohibitory clause contained in Section 497, Cr.P.C. Even otherwise, the disputed nature of the alleged cheques, signatures, *Iqrar Nama*, settlement/agreement, alleged financial liability, and the underlying transactions, at least tentatively, bring the case within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. At the bail stage, the benefit arising from such further inquiry is to be extended to the accused.

18. For the foregoing reasons, without expressing any final opinion on the merits of the case, 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. Consequently, the instant bail application is **allowed**, and the applicant/accused **Muhammad Munir Awan son of Bashir Ahmed Awan** is admitted to post-arrest bail, subject to his furnishing solvent surety in the sum of **Rs.10,00,000/- (Rupees One Million only)** and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

19. 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.

JUDGE

M.ZEESHAN