

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1208 of 2026

Applicant : Ghulam Rasool son of Allah Bux
through Mr. Fawad Ali Khichi,
Advocate

Respondent : The State through Mr. Sharaf-u-Din
Kanhar, Assistant Prosecutor
General, Sindh

Complainant : Tariq Siddiqui son of Nazeer Ahmed
Siddiqui 'NEMO'

Date of hearing : 15.09.2026

Date of decision : 15.09.2026

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant—Ghulam Rasool son of Allah Bux, seeks pre-arrest bail in FIR No.892 of 2025, under Section 489-F PPC, registered at Police Station Darakhshan, Karachi, calling in question the Order dated 06.04.2026, passed by the learned Additional Sessions Judge-I, Karachi South, whereby, his pre-arrest bail application was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court vide Order dated: 22.04.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that on 24.11.2025 at about 16:20 hours, Complainant, namely, Tariq Siddiqui son of Nazeer Ahmed Siddiqui, lodged an FIR at Police Station Darakhshan, Karachi, alleging therein that he, being a landlord and agriculturist, owned 400 acres of agricultural land comprising mango orchards situated at Pir Kathi, Deh Daro Qubo, Tando Allahyar. It was alleged that under a written agreement dated 02.12.2023, the mango crop for the seasons 2023-2024 and 2024-2025 was agreed to be sold to Applicant for Rs.70,000,000/-, against which, Rs.1,50,00,000/- was paid in advance, while Rs.1,50,00,000/- remained outstanding. In discharge of the said liability, the Applicant issued cheque No.1788676166 dated 02.06.2025, drawn on MCB Bank, which, upon presentation through Allied Bank Limited, Khayaban-e-Bukhari Branch, Karachi, on 04.07.2025, was dishonoured. Despite repeated demands, the Applicant allegedly failed to pay the outstanding amount; hence this FIR.

3. Learned Counsel for the Applicant argued that the Applicant is innocent and has falsely been implicated in this case with mala fide intention and ulterior motives, merely to pressurize him in a business dispute. He further argued that the dispute between the parties is purely of civil nature arising out of contractual obligations relating to lease and sale of mango orchard, for which, civil suits are already pending before competent Courts. He further contended that the cheque in question was issued as a security/ guarantee instrument in connection with ongoing business dealings and not against any legally enforceable liability, hence the essential ingredients of Section 489-F PPC are not attracted. He further submitted that there is inordinate and unexplained delay of more than four months in lodging the FIR after dishonor of the cheque, which creates serious doubt regarding the genuineness of the prosecution case and that prior to registration of FIR, the Applicant had already initiated civil proceedings for cancellation of cheques, settlement of accounts, recovery of damages and injunction, which clearly, demonstrates that the matter is sub-judice before civil Courts. He further argued that the Complainant himself violated the terms of agreement by failing to provide adequate water supply to the orchard, resulting in heavy financial loss to the Applicant, therefore, liability, if any, is disputed and subject to adjudication. He further contended that the element of dishonest intention, which is sine qua non for the offence under Section 489-F PPC, is entirely missing from the contents of FIR and material placed on record and that the offence alleged does not fall within the prohibitory clause of Section 497 Cr.P.C., and as per settled law, grant of bail is a rule and refusal is an exception, particularly where the case calls for further inquiry. He further argued that there is no direct or indirect evidence connecting the Applicant with the commission of offence and that the Applicant is a respectable businessman having deep roots in society, is neither a previous convict nor a hardened criminal, and there is no likelihood of his absconding or tampering with prosecution evidence and that the Applicant is ready and willing to furnish solvent surety to the satisfaction of this Court and that the Applicant has joined the investigation and has not misused the concession of interim protection. Lastly, he prayed for confirmation of bail. In support of his contentions, learned Counsel has placed reliance upon the case laws reported as MUHAMMAD SHAHID *versus* The STATE (2025 MLD 781), MUHAMMAD TANVEER *versus* The STATE (PLD 2017 SC 733), IMRAN KHAN BROHI *versus* The STATE (2025 YLR 617), KABEER AHMED BROHI *versus* The STATE (2025 YLR 1364), ABDUL RASHEED *versus* The STATE and another (2023 SCMR 1948), ATIF ALI *versus* The STATE and others (2024 SCMR 2066), MUHAMMAD ANWAR *versus* The STATE and another (2024 SCMR 156), NASRULLAH *versus* SHO,

POLICE STATION JACOBABAD and 6 others (PLD 2016 Sindh 238), ABDUL SABOOR *versus* The STATE through A.G. Khyber Pakhtunkhwa and another (2022 SCMR 592), Major ANWAR-UL-HAQ *versus* The STATE (PLD 2005 Lahore 607) and an unreported Orders dated 19.09.2023, 09.12.2025 and 10.03.2026, passed by this Court.

4. Learned Assistant Prosecutor General, Sindh argues that the offence is duly reflected from the contents of the FIR and supporting material, that the cheque was dishonoured, and that sufficient *prima facie* material is available to connect the Applicant with the commission of the offence. He contends that pre-arrest bail is an extraordinary relief which cannot be granted as a matter of course, particularly where the accused has allegedly misused earlier concessions, and therefore he prays that the present pre-arrest bail application be dismissed.

5. I have given thoughtful consideration to the arguments advanced by the learned Counsel for the Applicant as well as Assistant Prosecutor General, Sindh and have carefully examined the record with a tentative assessment, as is permissible at the bail stage. It is well settled that pre-arrest bail is an extraordinary relief, intended to protect innocent persons from abuse of the process of law, undue harassment, humiliation, or mala fide arrest. At this stage, the Court is not required to undertake a deeper appreciation of evidence; rather, it is to make a tentative assessment of the material available on record. For attracting the provisions of Section 489-F, P.P.C., the prosecution is required, at least *prima facie*, to establish the following essential ingredients: (i) issuance of a cheque by the accused; (ii) issuance of such cheque dishonestly; (iii) existence of a legally enforceable debt, liability, or obligation; (iv) knowledge or *mens rea* at the time of issuance that the cheque would be dishonoured; and (v) dishonour of the cheque upon its presentation. It is by now settled law that mere dishonour of a cheque, by itself, does not constitute an offence under Section 489-F, P.P.C., unless all the aforesaid ingredients coexist. A careful perusal of the FIR and annexed material reveals that admittedly there exists an agreement of lease of mango garden between the parties. The prosecution record is silent as to when, where, and in what manner the alleged cheque was issued by the present Applicant in discharge of any liability. The mode of transaction, consideration, and foundation of liability has not been disclosed, which are fundamental prerequisites for invoking Section 489-F PPC. Equally significant is the fact that the FIR does not allege any dishonest intention (*mens rea*) on the part of the present Applicant at the time of issuance of the cheques. There is no assertion that the Applicant knowingly issued the cheques with the intention that it would be dishonoured. In the absence of

such allegation, the essential element of dishonesty, being the soul of Section 489-F PPC, remains unestablished at this stage.

6. The core ingredients of Section 489-F PPC cannot be conclusively determined without recording of evidence. These aspects require deeper probe and proper appreciation at trial. Consequently, the case, so far as the present Applicant is concerned, squarely falls within the ambit of “further inquiry” as envisaged under Section 497(2) Cr.P.C.

7. It is further observed that: The FIR has been lodged after a considerable unexplained delay; The alleged transaction appears to have predominantly arisen from a lease agreement concerning the mango garden between the parties; The offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; and bail is not to be withheld as a measure of punishment.

8. In similar circumstances, where bail was granted in an 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”.*

9. Keeping in view the settled principles of law governing pre-arrest bail, this Court is of the tentative view that the Applicant has made out a case for confirmation of pre-arrest bail. Consequently, the ad-interim pre-arrest bail granted to Applicant-Ghulam Rasool son of Allah Bux vide Order dated 22.04.2026, in Crime No.892 of 2025, registered at Police Station Darakhshan, Karachi, for offence under Section 489-F PPC, is hereby confirmed, subject to enhancement of surety amount from Rs.50,000/- [Rupees Fifty Thousand Only] to Rs.500,000/- [Rupees Five Hundred Thousand Only] and P.R. bond in the like amount to the satisfaction of the Nazir of this Court. 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