

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.773 of 2026

Applicant : Muhammad Salman son of Abdul
Khaliq through Mr. Zulfiqar Ahmed
Baig, Advocate

Complainant : Muhammad Ahsan son of Muhammad
Laiq through Mr. Muhammad Adeel
Meo, Advocate

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

Date of hearing : 25.09.2026

Date of decision : 25.09.2026

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant– Muhammad Salman son of Abdul Khaliq, seeks pre-arrest bail in Crime No.531 of 2025, registered at Police Station Gulshan-e-Maymar, Karachi, for an offence punishable under Section 489-F, PPC. The Applicant has called in question the Order dated 11.12.2025, passed by the learned VIIth Additional Sessions Judge, Karachi West, whereby his application for pre-arrest bail was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court *vide* Order dated 09.03.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that the Complainant resides with his family and is engaged in construction work. It is alleged that on 15.01.2024, he paid an amount of Rs.7,180,000/- to the present Applicant for business purposes. According to the Complainant, the Applicant assured him that the amount would be returned within three months and that the profit accrued therefrom would be paid to him on a monthly basis. It is further alleged that, after expiry of the stipulated period, neither the profit nor the principal amount was paid. Upon demand for repayment, the Applicant allegedly issued two cheques, each amounting to Rs.1,063,334/-, drawn on Sonery Bank, Korangi Branch, Karachi. The Complainant presented the said cheques through his account maintained with Habib Metro Bank, Gulshan-e-Maymar Branch, Karachi; however, the cheques were dishonoured. Consequently, the present FIR was lodged.

3. Learned Counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated by the complainant in order to pressurize him in connection with a dispute arising out of a business transaction. It was argued that the cheques in question were issued as security and not towards discharge of any legally enforceable liability. Learned Counsel further submitted that the dispute between the parties is essentially civil in nature and that the ingredients of Section 489-F, PPC, particularly dishonest intention or mens rea at the time of issuance of the cheques, are not available from the prosecution material. It was also contended that the FIR was lodged after an unexplained delay of approximately one month. According to learned Counsel, the offence under Section 489-F, PPC, does not fall within the prohibitory clause of Section 497(1), Cr.P.C., the Applicant has joined the investigation, and there is no allegation that he misused the concession of interim pre-arrest bail. He, therefore, prayed for confirmation of the interim bail.

4. Conversely, learned Counsel for the Complainant opposed the application and submitted that the applicant is directly connected with the transaction in question and that the cheques were issued towards discharge of an outstanding liability. He contended that the cheques were dishonoured upon presentation, thereby causing financial loss to the Complainant. According to him, the plea of a civil dispute has been raised merely to avoid criminal liability, whereas the material available on record prima facie connects the Applicant with the commission of the alleged offence. He, therefore, prayed for dismissal of the bail application.

5. Learned Assistant Prosecutor General, Sindh, also opposed the application and submitted that the offence is prima facie made out from the contents of the FIR and the supporting material. She contended that the cheques admittedly stood dishonoured and that sufficient material is available connecting the applicant with the alleged offence. It was further argued that pre-arrest bail is an extraordinary relief and cannot be claimed as a matter of right.

6. I have heard learned Counsel for the Applicant, learned Counsel for the Complainant as well as Assistant Prosecutor General, Sindh, and have carefully examined the available record. At the bail stage, the Court is required to make a tentative assessment of the material available on record and is not expected to undertake a deeper appreciation of evidence or conduct a detailed examination of the merits of the case. Pre-arrest bail, being an extraordinary relief, is ordinarily intended to protect a person

from unjustified arrest, harassment or abuse of the process of law, where the circumstances so warrant.

7. In order to attract the penal provision of Section 489-F, PPC, the prosecution is required to establish, prima facie, that the accused issued a cheque; that the cheque was issued dishonestly towards repayment of a loan or fulfilment of an obligation; that there existed a legally enforceable obligation or liability; and that the cheque was dishonoured upon presentation. Mere dishonour of a cheque, by itself, does not automatically constitute an offence under Section 489-F, PPC, unless the requisite statutory ingredients are prima facie established.

8. In the present case, the prosecution alleges that an amount of Rs.7,180,000/- was initially advanced to the Applicant pursuant to a business arrangement and that, subsequently, two cheques of Rs.1,063,334/- each were issued. However, the record presently available does not satisfactorily disclose the circumstances in which the said cheques were issued, including the precise nature and legal character of the liability for which the cheques were allegedly issued. The prosecution material also does not, at this tentative stage, satisfactorily establish that the cheques were issued towards discharge of a legally enforceable liability as contemplated by Section 489-F, PPC.

9. More importantly, the question whether the applicant had dishonest intention at the time of issuance of the cheques is a matter requiring evidence. The mere fact that the cheques were subsequently dishonoured cannot, in isolation, establish the requisite dishonest intention at the time of issuance. The prosecution has yet to establish, through legally admissible evidence, the circumstances demonstrating that the Applicant issued the cheques with the requisite dishonest intention.

10. The defence plea that the cheques were issued as security in the context of a business transaction also raises a factual question which cannot be conclusively determined at the bail stage. Likewise, the question regarding the actual nature of the financial transaction, the extent of the alleged liability, the purpose for which the cheques were issued, and the circumstances attending their issuance are matters requiring proper appreciation of evidence at trial.

11. It is also noticeable that there is an apparent delay in setting the criminal law into motion after the alleged transaction and dishonour of the cheques. The explanation offered for such delay, if any, is a matter to be assessed on the basis of evidence. At this stage, the delay, when

considered together with the nature of the underlying business transaction and the disputed circumstances surrounding issuance of the cheques, adds an element requiring further inquiry.

12. Without expressing any final opinion on the merits of the case, the material presently available creates reasonable doubt requiring further inquiry within the meaning of Section 497(2), Cr.P.C.

13. It is further noted that the alleged offence under Section 489-F, PPC, does not fall within the prohibitory clause contained in Section 497(1), Cr.P.C. The Applicant has already joined the investigation and no material has been brought on record to demonstrate that, during the period of interim protection, he misused the concession granted by this Court, attempted to influence the witnesses, tampered with the prosecution evidence, or otherwise obstructed the course of investigation.

14. In the circumstances discussed above, this Court is of the tentative view that the applicant has made out a case warranting confirmation of the pre-arrest bail already granted to him. Accordingly, the ad-interim pre-arrest bail granted to Applicant-Muhammad Salman son of Abdul Khaliq *vide* Order dated 09.03.2026, in Crime No.531 of 2025, registered at Police Station Gulshan-e-Maymar, Karachi, for an offence punishable under Section 489-F, PPC, is hereby confirmed, subject to the same terms and conditions.

15. Needless to observe that the observations made herein are tentative in nature and shall have no bearing upon the merits of the case or the learned Trial Court's determination after recording and appreciating the evidence in accordance with law.

JUDGE

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