

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Crl. Bail Application No.S-188 of 2025

Applicant: Ali Hassan son of Muhammad Shah,
Through Mr. Kuldeep Sharma, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G.

Complainant: Muhammad Bux son of Peer Bux
In person.

Date of hearing: 15.08.2025

Date of order: 15.08.2025

O R D E R

Amjad Ali Sahito, J: Through this Bail Application, the applicant/accused seeks pre-arrest bail in Crime No.76/2025 for offence under section 489-F P.P.C registered at Sanghar, after his bail plea has been declined by the learned Additional Sessions Judge-II, Sanghar vide order dated 03.07.2025.

2. The details and particulars of the F.I.R are already available in bail application and the F.I.R, as such, need not to reproduce the same hereunder.

3. Per learned counsel, the applicant/accused is innocent and has been falsely implicated in this case by the complainant; the FIR is delayed for about 27 days for which no plausible explanation has been furnished by the complainant; the offence does not come within the ambit of prohibitory clause of Section 497 Cr.P.C, he prayed for confirmation of the bail.

4. On the other hand, learned D.P.G has vehemently opposed for grant of bail to the applicant/accused. Complainant Muhammad Bux has also opposed for grant of bail.

5. Heard and perused.

6. The case of the complainant is that the applicant bought a Wheat Thrasher for Rs.3,50,000/- and he paid Rs.50,000/- in cash and given two post-dated cheques. The cheque No.00065234 dated

01.04.2025 for Rs.3,00,000/- of HBL Microfinance Bank, Sanghar Branch was given in presence of complainant's witness namely Mumtaz Ali. The complainant deposited the cheque but the same was dishonoured and returned unpaid with the memo insufficient funds. It is, therefore, contended that the ingredients of Section 489-F, Pakistan Penal Code, 1860, are fully attracted to the present matter.

7. It is further alleged that the applicant/accused, having knowledge that his accounts held insufficient funds, nevertheless issued the aforementioned cheques, thereby demonstrating his lack of intention to repay the amounts and committing acts amounting to cheating and fraud upon the complainant.

8. The applicant/accused has not disputed the issuance of the cheques nor denied his signatures thereon. Furthermore, when approached by the complainant for repayment, the applicant/accused kept the complainant on false hopes. It is also alleged that the transaction occurred in the presence of the above-named witness, and that the cheque was issued in his presence.

9. At this bail stage, only a tentative assessment is to be made for the grant of bail. Sufficient material is available to connect the applicant/accused with the commission of offence under Section 489-F P.P.C, and no mala fide or ill-will has been attributed to the complainant by the applicant. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan **[2019 SCMR 1129]** wherein the Hon'ble Supreme Court of Pakistan has held as under:

"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires

considerations of malafide, ulterior motive or abuse of process of law."

10. Learned counsel for the applicant/accused has failed to make out the case for grant of bail. Accordingly, the bail application filed on behalf of the applicant/accused stands **dismissed**. The interim bail granted to the applicant/accused vide order dated **15.07.2025** is hereby **recalled**.

11 The observations made in this decision are of a tentative nature and will not influence the merits of the case.

JUDGE

Faisal