

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Application No. S-301 of 2025

Date	Order with signature of Judge	
Applicant Ghulam Murtaza son of Kouro Khan Panhwar (present on bail)	:	Through M/s. Naseer Ahmed Wagan & Shahzado Sodhar, Advocates
The State	:	Through Mr. Ali Anwar Kandhro, Addl. Prosecutor General, Sindh assisted by Mr. Zain-ul-Abideen Abbasi, Assistant P.G, Sindh.
Complainant Abdul Waheed	:	Through Mr. Imdad Ali Tunio, Advocate
Date of Hearing	:	10.10.2025
Date of Order	:	10.10.2025

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicant Mir Ghulam Murtaza seeks his admission to pre-arrest bail in Crime No.93 of 2025 registered with Police Station Mehar Taluka Mehar, for the offences punishable to Sections 489-F & 506 PPC. The applicant filed Cr. B.A No.623 of 2025 before the Court of Sessions, which subsequently was assigned to 2nd Addl. Sessions Judge, Mehar, who after due notice and hearing the parties, declined the request so made vide order dated 15.04.2025; hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.
3. The applicant is present in person on bail; however, M/s. Naseer Ahmed Wagan & Shahzado Sodhar, Advocates file their Vakalatnama on his behalf, taken on record. On 22.09.2025, Mr. Sher Ali Chandio, learned counsel for the applicant sought time to have instructions, therefore, it was adjourned to 06.10.2025. On 06.10.2025, though the counsel was present; however, applicant was not in attendance on the ground that he has taken his ailing mother to Karachi for treatment; hence, was directed to produce medical evidence. Today, the applicant is present; however, M/s. Naseer

Ahmed Wagan & Shahzado Sodhar, Advocates filed their Vakalatnama on his behalf only to defeat the process of law as well as to linger on the proceedings. However, while arguing the case, learned counsel submit that land in dispute has not been transferred in their name, therefore, transaction has not been effected and they seek a date.

4. On the other hand, learned Addl. P.G, Sindh opposes the bail application on the ground that a huge amount is involved in this case; besides, the applicant in order to usurp the said amount of complainant, has stopped the payment so that complainant should not be compensated. He; however, draws attention of the Court towards statement filed by counsel for the complainant.

5. Learned counsel for the complainant opposes the bail application on the ground that applicant is a malafide person of ferocious mind and therefore, has usurped the amount. As far as, contention of learned counsel for the applicant that they have not been paid by the concerned, learned complainant for the complainant draws attention of the Court towards his statement dated 22.09.2025, which reflects that cheques issued by the complainant, when presented before the bank concerned, it was returned for the reason that payment was stopped by the drawer, which clearly demonstrates that applicant is a person of ferocious mind and is a cheater, besides, has usurped a huge amount; hence, he is not entitled for the concession extended to him in terms of Section 498-A Cr.P.C.

6. **Heard arguments and perused record.** No malafide or any ill-will has been urged to believe that he has been implicated by the prosecution for such ill-will or animosity. I have gone through the material made available before me on record and observe that the applicant notwithstanding the punishment of imprisonment, not falling under the prohibitory clause, cannot be admitted to pre-arrest bail as a matter of right overlooking the attending facts and circumstances of the case. For seeking bail in a non-bailable offense, it is incumbent that the accused shall establish prima facie, the fact that his case is open to further inquiry and/or case is based on malafide intention, both factums are missing in present case. From tentative assessment of the evidence on record, the prosecution case against the applicant brims with incriminating connecting evidence about issuance of

the cheque involved in the criminal case, and no case of malafide on the part of the prosecution has been made out; hence, the applicant is not entitled to the extraordinary relief.

7. In case of Shameel Ahmad v. The State (2009 SCMR 174), Hon'ble Supreme Court of Pakistan while dealing with same situation, has laid down esteemed dictum in para-4 of the order, which reads as under;_

"4. We have heard the learned counsel for the parties and have perused the record. With regard to the contention that the bail should always be granted in cases not falling within the domain of prohibition clause of proviso to section 497, Cr.P.C. it is observed that it is not a rule of universal application. Each case has to be seen through its own facts and circumstances. The grant of bail, no doubt, is discretion granted to a Court, yet the exercise of it cannot be arbitrary, fanciful or perverse. If an order granting the bail has been obtained after suppressing necessary details of vital importance, the bail can be cancelled by the Court which had granted it. Petitioner who was involved in three previous cases of similar kind was prima facie found to be a habitual offender of issuing cheques and defrauding the people."

8. No malice on the part of complainant has been shown to believe that applicant has been implicated in this case falsely. In absence of such basic ingredients for seeking pre-arrest bail, no extraordinary relief in shape of pre-arrest bail can be granted. Since, basic ingredients for grant of pre-arrest bail, as has been laid down by the Hon'ble Supreme Court of Pakistan in case of ***Rana MUHAMMAD ARSHAD Versus MUHAMMAD RAFIQUE and another (PLD 2009 SC 427)***, are lacking in this case, hence, application in hand merits no consideration. Consequently, instant Criminal Bail Application is hereby **dismissed**. Since, the case has been challaned which is now pending for trial before the Court of Civil Judge & Judicial Magistrate-III, Mehar, therefore, applicant **Ghulam Murtaza son of Kouro Khan Panhwar** is taken into custody and remanded to Central Prison, Larkana, with directions to Senior Superintendent, Central Prison, Larkana, to produce him before the trial Court as and when summoned by it.

9. A copy of this order shall be communicated to trial Court by sending a copy of this order to learned Sessions Judge, Dadu, over fax today, for compliance. A copy of this order shall also be sent by fax to Senior Superintendent, Central Prison, Larkana, for compliance.

JUDGE