

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.1873 of 2025**

Syed Mukaram Ali Shah son of Ashraf Ali Shah... Applicant/Accused

Versus

The State.....Respondent

*Date of Hearing* : 16.10.2025

*Date of Order* : 16.10.2025

For the Applicant : Mr. Qamar Riaz, Advocat.

For the Complainant : Mr. Ahmed Ali, Advocate.

For the State : Ms. Rahat Ahsan, Additional P.G.

—

### **ORDER**

**TASNEEM SULTANA, J:** Through this bail application the applicant Syed Mukaram Ali Shah son of Ashraf Ali Shah seeks pre-arrest bail in Crime No.73 of 2025 registered at Police Station Nabi Buksh, Karachi, under Section 489-F, PPC. Earlier his bail was declined by the learned Vth Additional Sessions Judge, South Karachi vide order dated 03.06.2025. Now the applicant approached this Court for pre-arrest bail and interim pre-arrest bail was granted to him vide order dated 22.07.2025. The matter is fixed for confirmation or otherwise.

2. Brief facts of the prosecution case are that some cases were pending against the applicant Mukaram Ali Shah (present applicant), who, being friend of the complainant, borrowed a total amount of Rs.60,00,000/- in cash on various dates from complainant and promised to return the same after completion of his cases and also given in writing on the letter head of his company Shahs MHM Pvt. Limited. Thereafter he gave a cheque No.02014689 Rs.30,00,000/-, dated 04.10.2024 in complainant's name and asked him to pay Rs.20,00,000/- for one car and one plot in ASF City Karachi for the balance of Rs.30,00,000/-. The said cheque was bounced on presentation, therefore, the complainant contacted the applicant several times, however, the reply was evasive and consequently the aforesaid FIR was lodged.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that the complainant has

failed to mention any relationship or any business for which he has made any payment to the applicant; the FIR was lodged after lapse of more than five months; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; that investigation has been completed and challan submitted; that the applicant's custody is no longer required; that in view of the above, the matter requires further inquiry; learned counsel has also relied upon following case law in support of her contention:-

- (i) 2023 SCMR 748;
- (ii) 2020 P.Cr.L.J Note 90 (Hyderabad Bench);
- (iii) 2025 MLD 364 Sindh (Larkana Bench).

4. Conversely, learned Additional P.G assisted by the learned counsel for the complainant opposes the plea and submits that the applicant issued cheque of a substantial amount which was dishonoured on presentation; that the element of deception and dishonest intention is apparent from the applicant's conduct; that the documents and supporting material indicating existence of the transaction; that the offence involves considerable financial loss to the complainant and affects public confidence in commercial dealings; that such acts disturb financial discipline and must be dealt with strictly; hence, the applicant does not deserve the discretionary relief of bail; that the applicant has misused trust and seeks to avoid his lawful liability under the garb of a civil dispute.

5. Heard. Record perused.

6. It reflects from the record that the alleged transaction arises between the parties in respect of professional fee. The authenticity of these facts and the purpose for which the cheque(s) was issued can only be determined after recording of evidence at trial. At this stage, the matter appears to be one of further inquiry within the meaning of Section 497(2), Cr.P.C.

7. The offence alleged under Section 489-F, PPC carries a maximum punishment of three years and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. The settled principle is that in such cases, grant of bail is a rule and refusal an exception. Reliance is placed on Shehzad v. The State (2023 SCMR 679) and Tariq Bashir and others v. The State (PLD 1995 SC 34). The Hon'ble Supreme Court has repeatedly held that bail is neither

punitive nor preventive, as punishment begins only after conviction. If a person is mistakenly granted bail, such error can be corrected upon conviction, whereas wrongful pre-trial detention, if ultimately found unjustified, causes irreparable harm to liberty. Reliance is also placed upon the judgment in Nazir Ahmed alias Bharat v. The State and others (2022 SCMR 1467), wherein it was observed as under:

*“Section 489-F of P.P.C. is not a provision which is intended by the legislature to be used for recovery of an alleged amount, rather for recovery of any amount, civil proceedings provide remedies, inter alia, under Order XXXVII of C.P.C.”*

8. The FIR was lodged more than five months after the cheque was dishonoured, with no plausible explanation of such delay; such inaction, prima facie, raises doubt regarding the bona fides of the complainant. Investigation has been completed, challan has been submitted and all documentary material stands collected; that in such offences bail is to be granted as a rule where the matter carries civil attributes, calls for further inquiry within the meaning of Section 497(2) Cr.P.C.

9. In view of the above, the instant bail application is allowed and the interim pre-arrest bail granted to the applicant on 22.07.2025 is confirmed on the same terms and conditions.

10. The applicant shall attend the trial regularly and shall not misuse the concession of bail; any violation shall entail cancellation of bail according to law. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul