

**THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Bail Application No.S- 962 of 2025

Applicant : Afzal Hussain s/o Muhammad Bux by caste Buledi (on bail) through Mr. Muneer Ahmed Turk, Advocate.

Complainant : Abdul Ghaffar s/o Allah Bachayo @ Ilyas Porho by caste Khoso through Mr. Shahnawaz Brohi, Advocate.

State : Through Mr. Khalid Hussain Lakho, D.P.G.

Dated of hearing : 21.10.2025.

Date of Order : 21.10.2025.

O R D E R

JAWAD AKBAR SARWANA, J:- Through instant bail application, applicant/accused Afzal Hussain seeks pre-arrest bail in Crime No.100/2025 registered at Police Station Badin for offence u/s 489-F PPC as his earlier bail application for the same relief was declined by the learned 2nd Additional Sessions Judge, Badin vide order dated 11.07.2025.

2. I have heard the applicant/accused Counsel, the Additional Prosecutor General, Sindh and have perused the record, and my observations are as under:-

3. Counsel for the applicant / accused has pleaded that the cheque, which was dishonoured, was not issued as per any transaction and was wrongly encashed by the complainant. In support of his submissions, he has relied upon the case law reported as Talib Hussain v. The State (2007 P.Cr.L.J 1064), Ghulam Kadir v. The State (2007 YLR 1495), Syed Kashif Naqvi and 3 others v. The State (2008 P.Cr.L.J 412), Imran Ahmed v. The State (2025 YLR 1016) and Imran Khan Brohi v. The State (2025 YLR 617). On the other hand, counsel for the complainant submits that the cheque was based on a documented sale of motorcycles, and such receipts may be produced before the Court. Meanwhile, learned D.P.G

submitted that the cheque amount is substantial, and it would send a wrong message in society if bail were granted to the applicant/accused. He further contends that all the ingredients of Section 489-F PPC are met against the applicant/accused, and no case for concession of bail is made out.

4. It is an admitted position that the ingredients of Section 489-F PPC require the element of “dishonesty” to be present in the crime. Dishonesty in itself is not sufficient, and to prove it, the dishonest conduct is to be shown within the crime. In the instant case, including the final challan submitted by the I.O., there is no document evidencing the sale of motorcycles, a position that the parties do not deny. Indeed, according to the learned DPG, there is no copy of the sale invoice available with him in the Police File. Further, he contends that the Final Challan, available in the Sindhi language, also does not mention the sales invoice of the motorcycles. The learned Counsel has not controverted or opposed the submission of the learned DPG. Hence, even though the final challan is in Sindhi and this bench cannot read Sindhi, the fact that the parties have not denied the submission made by the learned DGP suggests they accept it. Accordingly, without the sales invoice for the motorcycles, it is necessary to conduct further inquiry to prove dishonesty. Moreover, it is also a case for further inquiry into how the bounced cheques came into the possession of the complainant.

5. Furthermore, the incident, as is evident from the FIR, is said to have taken place on 15.12.2024, whereas the report thereof was lodged by the complainant on 03.03.2025. Even if one were to exclude the time spent by the respondent/complainant in pursuing the matter before the Ex-Officio Justice of Peace to lodge an FIR, there is an unexplained delay in filing the

FIR, even after the judgment was announced in favour of the respondent. This also calls for further inquiry.

6. In the instant case, the punishment provided by law for the offence with which the applicant has been charged is only for three years and not exceeding the limits of the prohibitory clause of Section 497 Cr.P.C. The case has been challaned, and the applicant is not required for further investigation. Consequently, the applicant has made out a good prima facie case for his admission on pre-arrest bail, and his case requires further enquiry within the meaning of subsection (2) of Section 497 Cr.P.C.

7. In view of the above, the instant bail application is allowed, and the interim pre-arrest bail already granted to the applicant upon furnishing a solvent surety and P.R. bond in the like amount is hereby confirmed on the same terms and conditions, subject to doubling. This means that the bail amount of surety is doubled in the present case. At the time of granting interim pre-arrest bail, the applicant had furnished surety in the sum of Rupees Two Lacs (Rs.200,000/-) and P.R. Bond in the like amount; however, as mentioned above, the applicant/accused shall now additionally furnish a solvent surety in the sum of Rupees Two Lacs (Rs.200,000/-) and P.R. bond in the like amount. Therefore, the concession of bail to Afzal Hussain s/o Muhammad Bux Buledi is confirmed subject to furnishing total solvent surety in the sum of Rupees Four Lacs (Rs.400,000/-) and P.R. Bond in the like amount to the satisfaction of the Additional Registrar of this Court.

8. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Tufail