

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

Crl. Bail Application No.S-123 of 2025

Applicant: Iqtidar Ali son of Mazhar Ali (called absent).
Through Mr. Masud Ahmed Laghari, Advocate.

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

Complainant: Muhammad Arshad (present in person)
Through Mr. Francis Lucas Khokhar, Advocate.

Date of hearing: 24.09.2025

Date of order: 24.09.2025

O R D E R

Amjad Ali Sahito, J: Through this Bail Application, the applicant/accused seeks pre-arrest bail in Crime No.72/2024 for the offence under section 489-F P.P.C registered at Police Station Mehran, after his bail plea has been declined by the learned Additional Sessions Judge-II, Mirpurkhas vide order dated 12.12.2024.

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. The applicant/accused is called absent; however, his counsel is present. The absence of the applicant/accused is hereby condoned.

4. Learned counsel for the applicant/accused has contended that the present applicant/accused is innocent and has falsely been implicated in the instant case with mala fide intent. It is submitted that the FIR was lodged after an unexplained and inordinate delay of more than three months, which casts serious doubt on the veracity of the allegations. The learned counsel for the applicant further contended that the FIR has been falsely registered with malafide intent, as the complainant neither booked any travel ticket through the applicant/accused nor did the

applicant issue any cheque in his favour. It was argued that the alleged agreement presented by the complainant is fabricated and was not executed before any Nek Mards. The applicant is a travel agent who had reserved 34 Umrah packages through his agent, Ali Hassan, for the month of Shawwal, 2024, at a cost of Rs. 4,090,000/-. However, due to the Saudi Government's suspension of Umrah visas for Shawwal, the pilgrims could not travel, and the booking amount was forfeited. He further argued that the applicant issued three cheques to Ali Hassan to cover part of the loss, which were subsequently handed over to the complainant's uncle. The complainant and his uncle had no direct dealing with the applicant, and the FIR has been registered merely to exert pressure and extract money. It is further submitted that the applicant has already compensated the agent partially, yet the agent continues to refer complainants to the applicant. He also submits that the case has been registered with ulterior motives, and the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497(1) CrPC, as the maximum punishment is only three years. The only witness cited is a friend of the complainant, making him an interested witness. Lastly, he prayed for confirmation of interim pre-arrest bail.

5. Learned counsel for the complainant as well as the learned Deputy Prosecutor General have vehemently opposed confirmation of interim pre-arrest bail. They contended that after dishonour of the cheque, the complainant approached to the applicant for return of his money, but the applicant kept him on false hopes. Thereafter, the complainant filed an application under Sections 22-A & 22-B Cr.P.C. and obtained an order for registration of FIR from the Court of the Ex-Officio Justice of Peace, which was produced before the police, leading to registration of the FIR. Hence, the delay in lodging the FIR has been properly explained. They further submitted that the applicant/accused has committed cheating and fraud, and is not entitled to the extraordinary relief of pre-arrest bail. They prayed for dismissal of the bail application.

6. I have heard the learned counsels for respective parties and perused the material available on record.

7. After the grant of interim pre-arrest bail, the bail application was fixed for confirmation or otherwise. During the pendency of the said application, the applicant/accused undertook to pay the remaining amount to the complainant party, and the matter was adjourned twice on that assurance. On the last date of hearing, i.e., 18.09.2025, the matter was again adjourned at the request of the applicant/accused on the ground that he intended to settle the dispute amicably outside the Court. However, on the present date he has remained absent, which clearly indicates his lack of interest in repaying the outstanding amount to the complainant party.

8. The case of prosecution, is that the applicant/accused, namely **Iqtidar Ali**, son of **Mazhar Ali**, being the proprietor of *Gulzar-e-Madina Travel Agency*, obtained an amount of Rs.1,508,000/- from the complainant's uncle, **Muhammad Azad**, for the booking of Umrah tickets. On 17.02.2024, the said uncle of the complainant passed away, whereupon the complainant party immediately cancelled the tickets; however, the applicant/accused failed to refund the said amount and continued to give false assurances.

9. Subsequently, due to the intervention of local notables (*Nek Mards*), the applicant/accused issued three cheques, i.e., Cheque No. **E-181783282** for Rs.508,000/-, Cheque No. **E-18178380** for Rs.500,000/-, and Cheque No. **E-18178377** for Rs.500,000/-, all drawn on his Account No. **PK2MEZN0041010104243899** maintained at Meezan Bank, Mirpurkhas. Upon presentation, all the aforementioned cheques were dishonoured and returned unpaid with the bank's memo citing "insufficient funds."

10. The issuance of these cheques, despite the applicant/accused's knowledge of inadequate funds in his account, squarely attracts the ingredients of Section 489-F, Pakistan Penal Code, and clearly demonstrates his fraudulent intent and lack of bona fide to repay the complainant, thereby constituting acts of cheating and criminal breach of trust.

11. As regards the contention raised by the learned counsel for the applicant/accused that the FIR was registered with inordinate delay, it is submitted that the delay has been sufficiently explained in the contents of the FIR. It is on record that an agreement was executed between the parties before the *Nek Mards* of the locality, pursuant to which the applicant/accused issued three cheques in favour of the complainant. Upon dishonour of the said cheques, the complainant approached the applicant/accused, who kept him on false assurances. Thereafter, the complainant filed an application under Sections 22-A & 22-B Cr.P.C. and obtained an order from the Court of the Ex-Officio Justice of Peace for registration of the FIR, which was then produced before the police, resulting in the lodging of the FIR. Accordingly, the delay in registration of the FIR has been properly and reasonably explained.

12. 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."

13. 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 **14.05.2025** is hereby **recalled**.

14. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

JUDGE

Adnan Ashraf Nizamani