

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1888 of 2025

Applicant : Riaz, through Mr. Sajjad Ali Bhutto, Advocate.
Complainant : Muhammad Babar Ali, in person.
Respondent : The State, through Mr. Muhammad Noonari,
D.P.G.
Date of Hearing : 21.11.2025
Date of Order : 21.11.2025

ORDER

TASNEEM SULTANA, J: Through this criminal bail application, the applicant Riaz seeks pre-arrest bail in Crime No.571 of 2025 under Section 489-F, PPC, registered at Police Station Shahra-e-Faisal. Earlier same relief was granted by the learned Vth Additional Sessions Judge, Karachi East but was recalled vide order dated 19.07.2025.

2. The brief facts of the prosecution case, as set out in the FIR, are that the complainant's father had purchased two plots from one Tariq in the year 2015. It is alleged that Tariq later sold those plots onward without their consent. The complainant states that when they attempted to resell the plots, one Qari Yousuf agreed to purchase them, but the cheques issued by him were dishonoured, resulting in registration of FIR No.723 of 2022. The FIR further reflects that thereafter the present applicant Riaz appeared and handed over two cheques said to be security cheques, including one cheque of Rs. 18,00,000/- which the complainant deposited in his account, but the same was dishonoured due to insufficient funds. The complainant alleges that despite repeated attempts, the applicant avoided contact, whereafter the instant FIR was lodged.

3. Learned counsel for the applicant contended that the entire allegation is false and motivated, as the applicant never issued any cheque to the complainant in discharge of any legally enforceable liability. It is argued that the FIR is burdened with an unexplained delay of more than five months, which alone casts doubt upon the prosecution story. He further submits that the alleged cheque was described as a security cheque in the FIR itself, and the nature and

extent of any underlying liability cannot be determined without recording evidence. It is therefore argued that the matter squarely falls within the ambit of further inquiry. He prayed for confirmation of interim pre-arrest bail.

4. Conversely, learned DPG opposed the application and argued that the applicant is nominated in the FIR with a specific allegation of issuance of the dishonoured cheque, which sufficiently attracts the ingredients of Section 489-F PPC. According to him, dishonest intention is evident from the conduct of the applicant, and no ground exists for granting him the extraordinary remedy of pre-arrest bail.

5. Heard. Record perused.

6. From the contents of the FIR, it appears that the allegation against the present applicant revolves around issuance of a cheque stated to be a security cheque, which upon presentation was dishonoured. Prima facie, the FIR itself reflects that the dispute arises out of earlier transactions relating to sale of plots and the complainant's dealings with third parties. Whether the applicant stood under a legally enforceable obligation at the time of issuance of the cheque, whether the cheque was issued as security, and whether any liability had matured are matters requiring proof at trial and cannot be conclusively determined at this stage without deeper appreciation of evidence, which is not permissible at bail stage. The unexplained delay of more than five months in setting the law into motion also prima facie casts doubt upon the prosecution version and calls for cautious consideration.

7. These aspects, taken together, prima facie raise a question attracting the provisions of further inquiry within the meaning of Section 497(2) Cr.P.C.

8. 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.”

9. In view of the above facts and circumstances, interim pre-arrest bail already granted to the applicant/ accused vide order dated 21.07.2025 was confirmed on same terms and conditions, by a short order dated 21.11.2025 and these are the reasons for the same.

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