

## IN THE HIGH COURT OF SINDH AT KARACHI

### **Criminal Bail Application No.2320 of 2025**

Applicant : Rameez Abbas, through Mr. Liaquat Ali Khan,  
Advocates.

Complainant : Ghulam Hussain, through Mr. Majid Ali,  
Advocate.

Respondent : The State, through Mr. Mumtaz Ali Shah,  
A.P.G.

Date of Hearing : 18.11.2025

Date of Order : 18.11.2025

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### **ORDER**

**TASNEEM SULTANA, J:** Through this criminal bail before arrest application, the applicant Rameez Abbas seeks pre-arrest bail in Crime No.372 of 2025 under Sections 489-F, PPC, registered at Police Station Zaman Town. Earlier same relief was granted by the learned Vth Additional Sessions Judge, Karachi East but was recalled vide order dated 04.09.2025.

2. Brief facts of the prosecution case, as set out in the FIR, are that the complainant Ghulam Hussain, a retired employee, had purchased vehicle No. AGF-649 (Fortuner) from the present applicant in 2010 for Rs.9,000,000/-. Subsequently, the applicant took back the said vehicle and sold another Fortuner bearing No.BG-7705 for Rs.9,500,000/-, which was also later taken back by the applicant. Thereafter, the applicant sold a Revo vehicle No. KY-199 to the complainant for Rs.10,500,000/-, for which the complainant paid Rs.1,000,000/- in cash and obtained possession; however, after two months, the applicant again took back this vehicle, assuring that he would provide a 2024 model Rocco vehicle but failed to do so. The applicant then executed a written agreement in 2024 and issued three cheques, i.e., Cheque No.A-63183904 for Rs.5,000,000/- dated 30.12.2024, Cheque No.A-63183903 for Rs.5,000,000/- dated 10.08.2024, and Cheque No.A-73183902 for Rs.3,000,000/- dated 30.09.2024, further promising to pay the remaining Rs.2,000,000/- within one month after clearance of the said cheques. Upon presentation, two cheques were dishonoured on 07.02.2025, whereafter the present FIR was lodged.

3. Learned counsel for the applicant contended that the present applicant is innocent and has been falsely implicated with malafide intention; that there is a delay of one month and 11 days in lodging of FIR; that the applicant had never sold any vehicle to the complainant; that the alleged cheques were not given to the complainant by the applicant but in fact the said cheques were given to one Muhammad Hussain son of Ameer Abdullah as open guarantee/security as the applicant had property dealing/business with the said person; that the writing over the said cheques is not of the applicant; that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; and that the applicant is ready to face the trial, therefore, he deserves the concession of bail.

4. Conversely, learned A.P.G. assisted by learned counsel for the complainant opposed the plea and argued that the applicant issued cheques which were dishonoured upon presentation, thereby defrauding the complainant; that the dishonoured cheques were issued not as a security but towards discharge of a legally enforceable liability; and that such conduct prima facie attracts the mischief of Section 489-F, PPC. He contended that the offence undermines public confidence in financial transactions and does not warrant leniency at the bail stage.

5. Heard. Record perused.

6. A tentative assessment of the material available on record reveals that the gravamen of the allegation against the applicant is the issuance of cheques which were dishonoured upon presentation. The dispute, however, emanates from a business transaction, and the applicant's stance is that the cheques were issued to someone else merely as security and not for encashment. Prima facie, the mere issuance of a cheque(s) and its being dishonored by itself is not an offense, unless and until dishonesty on the part of a payer is proved.

7. Provisions of Section 489-F P.P.C., will only be attracted if the following essentials ingredients are fulfilled and proved by the prosecution: -

- (i) *issuance of the cheque,*
- (ii) *such issuance was with dishonest intention;*
- (iii) *the purpose of issuance of cheque should be :-*

- (a) to repay a loan; or
- (b) to fulfill an obligation (which in wide term inter-alia applicable to lawful agreements, contracts, services, promises by which one is bound or an act which binds a person to some performance).
- (iv) on presentation, the cheques are dishonored. However, a valid defense can be taken by the accused, if he proves that;-
  - (i) he had made arrangements with his bank to ensure that the cheques would be honored; and
  - (ii) that the bank was at fault in dishonoring the cheque.

8. At this stage, the element of dishonest intention appears a matter to be determined by the trial Court after recording of evidence. The dispute, on the face of record, arises from a contractual or civil transaction, and the penal provisions of Section 489-F, PPC, may not be attracted in the absence of such intent. The offence alleged does not fall within the prohibitory clause of Section 497 Cr.P.C., and the case calls for further inquiry.

9. 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.”*

10. The FIR was lodged more than one month after the cheques were 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. The applicant has joined the investigation.

11. In view of the above facts and circumstances, interim pre-arrest bail already granted to the applicant/ accused vide order dated 08.09.2025 is confirmed on same terms and conditions.

12. 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