

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2966 of 2025

Applicant : Ahmed Nadeem, through M/s. Mulazim Hussain Baloch and Naseebullah, Advocates.

Complainant : Syed Nadeem, through Mr. Muhammad Afzal, Advocate.

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

Date of Hearing : 19.11.2025

Date of Order : 19.11.2025

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ORDER

TASNEEM SULTANA, J: Through this criminal bail before arrest application, the applicant Ahmed Nadeem seeks pre-arrest bail in Crime No.153 of 2025 under Sections 489-F, PPC, registered at Police Station Risala. Earlier same relief was granted by the learned VIIIth Additional Sessions Judge, Karachi South but was recalled vide order dated 23.10.2025.

2. Brief facts of the prosecution case are that the complainant and his partner, who run a food-products business at Napier Garden, Karachi, were approached by the applicant Nadeem, an acquaintance, who claimed urgent need of Rs.6,500,000/- for his clearing and forwarding work and assured repayment within one month. It is alleged that the complainant and his partner paid the said amount in cash, against which the applicant issued Cheque No.11653032 dated 02-06-2025, which upon deposit on 13-06-2025 was dishonoured due to insufficient funds, and the applicant allegedly avoided repayment, resulting in registration of the FIR.

3. Learned counsel for the applicant contended that the present applicant is innocent and has been falsely implicated with malafide intention; that the applicant has never issued any cheque to the complainant; that the complainant has presented the lost/ stolen cheque with forged signatures of the applicant for encashment; that no loan, cash or monetary transaction ever took place between the complainant and the applicant and the story of payment of Rs.65,00,000/- is totally false and concocted; that upon discovering the theft, the applicant informed his bank in writing that the said

cheque had been lost/ stolen and requested the bank that if the cheque is ever presented, it should not be passed or honoured and the bank acknowledged applicant's intimation; that despite such prior notice to the bank, the complainant mischievously presented the stolen cheque for encashment; that said cheque being stolen property and not voluntarily issued towards discharge of any liability, does not fall within the ambit of Section-489-F PPC; that the applicant is ready to face the trial, therefore, he deserves the concession of bail.

4. Learned counsel for the complainant opposed the grant of bail and submitted that the applicant had obtained Rs.6,500,000/- from the complainant and issued the cheque in question towards repayment, which was dishonoured for insufficient funds, reflecting his dishonest intention. He argued that the plea of a lost or stolen cheque is a false afterthought and that the offence fully attracts Section 489-F PPC; therefore, the applicant is not entitled to pre-arrest bail.

5. Conversely, learned APG opposed the bail plea; however, he conceded that the applicant had intimated his bank in writing on 29-03-2024 regarding the loss of his cheque, which intimation predates the alleged incident of 13-06-2025, whereas the FIR was lodged later on 30-09-2025. He submitted that this aspect requires adjudication at trial but prayed for an order in accordance with law.

6. A tentative assessment of the material reflects that the allegation revolves around a cheque said to have been dishonoured upon presentation. The applicant's stance is that the cheque had been lost and was never issued towards any liability. Prima facie, the record shows that the applicant had already intimated his bank in writing on 29-03-2024 regarding the loss of the said cheque, whereas the alleged transaction is stated to have occurred on 13-06-2025, and the FIR was subsequently lodged on 30-09-2025. This prior intimation raises a substantial question requiring determination at trial as to whether the cheque was in fact issued voluntarily or was misused after being lost. 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.

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 investigation has been completed, challan has been submitted. The applicant has joined the investigation.

9. In view of the above facts and circumstances, interim pre-arrest bail already granted to the applicant/ accused vide order dated 30.10.2025 was confirmed on same terms and conditions by a short order dated 19.11.2025 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 according to law. The observations made herein are tentative and shall not prejudice either party at trial.

JUDGE

Ayaz Gul