IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No. S-1123 of 2025

Applicant	:	Abdul Haleem son of Muhammad Arif @ Arif, by caste Ghunio Through Mr. Parmanand, Advocate
The State	:	Through Mr. Mansoor Ahmed Shaikh, Deputy Prosecutor General
Date of hearing	:	02.02.2026
Date of order	:	12.02.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. – Through this application, the applicant seeks post-arrest bail in Crime No.34 of 2025 registered at Police Station Pano Akil for an offence under Section 489-F, P.P.C., his earlier plea having been declined by the learned Additional Sessions Judge-V, Sukkur vide order dated 25.03.2025.

2. The allegation, in essence, is that the applicant, who is engaged in construction of flats, booked a flat for the complainant against a total sale consideration of Rs.75,00,000/-, received Rs.23,00,000/- in instalments, and thereafter, instead of handing over possession or refunding the amount, issued a cheque of Rs.23,00,000/- which, on two separate presentations, was dishonoured.

3. Learned counsel for the applicant contends that the cheque in question was not issued towards discharge of an existing, crystallized liability, but was handed over as a security/guarantee in the backdrop of a civil/commercial transaction, which has already been made the subject-matter of a civil suit for declaration and cancellation pending before the learned Senior Civil Judge-I, Sukkur, a material fact allegedly suppressed by the complainant. He maintains that on the applicant's plea

that the cheque was misused and not returned, the necessary element of dishonest intention, which is sine qua non for attracting Section 489-F, P.P.C., becomes a matter of serious doubt and, at the very least, brings the case within the purview of further inquiry under Section 497(2), Cr.P.C. He has further argued that the alleged occurrence took place on 24.10.2024, whereas the F.I.R. was lodged on 14.02.2025, after an unexplained and inordinate delay of more than four months, which prima facie suggests deliberation and consultation and affects the credibility of the prosecution version. He also emphasized that the maximum punishment provided for the alleged offence is three years' imprisonment, thus the matter does not fall within the prohibitory clause of Section 497(1), Cr.P.C., where bail is to be treated as a rule and refusal as an exception, and that mere magnitude of amount or pendency of other cases cannot by itself justify denial of liberty, if otherwise the case calls for bail. In support of his submissions, he has placed reliance, inter alia, upon 2022 SCMR 592, PLD 2017 SC 733 and other reported and unreported precedents which consistently reiterate the above principles.

4. Conversely, learned Deputy Prosecutor General assited by the consel for complainant has opposed the concession of bail on the ground that the cheque was issued by the applicant with mens rea and malafide intent, to defeat a binding contractual obligation and to defraud the complainant of a substantial amount. He has further submitted that the applicant is a habitual offender, inasmuch as several F.I.Rs. of similar nature have been registered against him, and that his release on bail would expose the public to further financial harm.

5. I have given my anxious consideration to the rival submissions and examined the available record in the light of the settled principles governing grant or refusal of bail in cases arising under Section 489-F,

P.P.C. It is by now well-entrenched in the jurisprudence of the Hon'ble Supreme Court that the mere issuance and subsequent dishonour of a cheque, without more, does not ipso facto constitute an offence under Section 489-F, P.P.C.; the prosecution must ultimately establish that the cheque was issued with dishonest intention, and that it was issued in repayment of a loan or discharge of a subsisting liability, and was dishonoured on presentation. The essential ingredients of the section have been succinctly delineated by the superior Courts as: (i) issuance of cheque, (ii) such issuance with dishonest intent, (iii) for the purpose of repaying a loan or discharging an enforceable obligation, and (iv) dishonour of such cheque on presentation. Whether, on the facts of a given case, these ingredients co-exist in the requisite manner is ordinarily a matter to be determined on the basis of evidence at trial.

6. In case of *Abdul Saboor v. The State* (2022 SCMR 592), while dealing with an accusation under Section 489-F, P.P.C., the Hon'ble Supreme Court observed that where the maximum punishment prescribed is three years and the offence does not fall within the prohibitory clause, the general rule is that bail should be granted rather than refused, and that criminal law is not to be employed as a coercive mechanism for recovery of money, for which appropriate civil remedies, including proceedings under Order XXXVII, C.P.C. and negotiable instruments regime, are available. The Court, in that case, confirmed the grant of bail where the accused had already remained in custody for more than six and a half months, underscoring that continued incarceration in such matters, in the absence of exceptional circumstances, offends the principle that liberty is the norm and detention an exception.

7. Similarly, in PLD 2017 SC 733 and allied authorities cited before this Court, the apex Court has repeatedly held that in offences not hit by the

prohibitory clause, denial of bail must be supported by some extraordinary feature, such as likelihood of absconding, possibility of tampering with prosecution evidence, or a past conduct demonstrably showing abuse of concession of bail; mere gravity of the allegation or quantum of amount, without more, is not sufficient to override the presumption of liberty.

8. Viewed in the above doctrinal framework, the case of the present applicant squarely falls within the ambit of further inquiry as envisaged by Section 497(2), Cr.P.C. Firstly, the defence has, from the very inception, taken a specific and plausible plea that the cheque was issued as a security/guarantee in respect of a property transaction and not towards immediate encashment for discharge of a crystallized liability. This contention is buttressed by the admitted existence of a pending civil suit between the same parties in respect of the underlying transaction. When a dispute manifestly springs from a civil/commercial arrangement, and the complainant simultaneously or subsequently pursues criminal process under Section 489-F, the line between civil and criminal liability becomes blurred and requires careful scrutiny, particularly at the bail stage, where benefit of such doubt in the factual and legal substratum enures to the accused under the doctrine of further inquiry.

9. Secondly, the delay of more than four months between the alleged occurrence dated 24.10.2024 and the registration of F.I.R. on 14.02.2025 remains, at this stage, without cogent explanation on the record. Though delay is not invariably fatal, yet in financial transactions between private parties, such inordinate and unexplained hiatus can legitimately be viewed, in bail jurisdiction, as a circumstance suggesting deliberation, consultation and possible embellishment, thereby eroding the intrinsic reliability of the prosecution version and providing an additional plank for treating the case as one requiring further probe.

10. Thirdly, the alleged offence carries maximum punishment of three years' imprisonment, and thus does not fall within the prohibitory clause of Section 497(1), Cr.P.C. In such like matters, the consistent view of the Hon'ble Supreme Court is that the normal rule is grant of bail, while refusal is an exception to be invoked only where some outstanding feature justifying continued detention is clearly made out. The record, as produced, does not show that the applicant is presently required for any investigative purpose, nor is there material before this Court, at this stage, to conclude that he is likely to abscond or to tamper with the prosecution evidence if released on bail. The bare assertion that other cases of like nature stand registered against him, without placing on record their particulars, stage or outcome, cannot, in the face of the above legal position, constitute a standalone ground to non-suit him at the bail stage, particularly when higher judicial fora have cautioned that mere multiplicity of cases, by itself, is not a valid reason to deny bail where statutory considerations otherwise favour liberty.

11. In the totality of circumstances, including the civil complexion of the underlying dispute, the specific plea of cheque having been issued as security, the unexplained delay in lodging of F.I.R., the non-applicability of prohibitory clause, and the authoritative guidance furnished by the apex Court on the scope and object of Section 489-F, P.P.C. and the approach to bail in non-prohibitory offences, I am persuaded to hold that the applicant has succeeded in making out a case for further inquiry within the contemplation of Section 497(2), Cr.P.C. His continued incarceration from his arrest on 01.03.2025, in the absence of any demonstrated exceptional ground, would not be in consonance with the settled principles governing personal liberty.

12. Resultantly, this Criminal Bail Application is allowed. The applicant, Abdul Haleem, is admitted to post-arrest bail, subject to his furnishing solvent surety in the sum of Rs.500,000/- (Rupees Five Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

13. It is, however, clarified that the observations made herein are purely tentative, confined to the decision of this bail application, and shall not prejudice the learned trial Court, which shall decide the case strictly on the basis of evidence adduced before it and in accordance with law.

J U D G E