IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-1132 of 2025

Applicant	:	Abdul Haleem son of Muhammad Arif @ Arif, by caste Ghunio Through: Mr. Parmanand, Advocate
Complainant	:	Saifullah Shaikh Through: M/s Ali Ahmed Khan and Bilal Ahmed Soomro, Advocates
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. – The applicant seeks the concession of post-arrest bail in Crime No.14 of 2025 registered at Police Station SIRS, Sukkur for offences under sections 489-F, 420, 406 and 34, P.P.C., his earlier application having been declined by the learned Additional Sessions Judge-V, Sukkur vide order dated 25.03.2025.

2. The prosecution alleges that in 2022 the applicant, engaged in construction business, agreed to sell to the complainant commercial shop No. SKG-11, Ground Floor, Shazia King Apartments, Sukkur, for a total sale consideration of Rs. 32,700,000/-, against which an amount of Rs. 12,000,000/- was allegedly paid in installments. Subsequently, the parties purportedly agreed that the shop would be surrendered and the applicant would refund Rs. 15,000,000/-, for which a cheque was issued that, upon presentation, was dishonoured for insufficiency of funds, followed by alleged avoidance and refusal to pay, resulting in registration of the F.I.R. on 22.01.2025 at 1600 hours.

3. Learned counsel for the applicant contended that the applicant is falsely implicated; that there is an unexplained delay of about six months in

setting the law in motion; that the cheque was issued as a mere "security" and not in discharge of any admitted, crystallized or ascertained liability; that neither the alleged written settlement nor the video recording has been produced before or subjected to any forensic scrutiny by the Investigating Officer; and that the complainant initially abstained from availing civil remedies, whereas the applicant has already instituted a civil suit for declaration and cancellation before the learned Senior Civil Judge-I, Sukkur, wherein the complainant figures as defendant, thus portraying a fundamentally civil and commercial dispute which has been given a criminal hue, attracting the doctrine of further inquiry under section 497(2), Cr.P.C. Learned counsel further pointed out that the applicant has remained in custody from his arrest on 01.03.2025; that challan has been submitted, charge framed, and examination-in-chief of the complainant and one witness recorded; that the maximum punishment provided for the principal offence under section 489-F, P.P.C. is imprisonment extending to three years, which does not bring the case within the prohibitory clause of section 497(1), Cr.P.C.; and that, in such-like matters, liberty is to be favoured, bail being a rule and refusal an exception, as recognized, inter alia, in PLD 1995 SC 34 and later precedents wherein section 489-F, P.P.C. has been held not to be a coercive instrument for recovery of disputed amounts.

4. Conversely, learned D.P.G., assisted by learned counsel for the complainant, opposed the petition on the grounds that the cheque was issued with dishonest intent in respect of a legally enforceable obligation, thereby occasioning financial loss to the complainant; that the applicant is alleged to be a habitual offender, multiple F.I.Rs. of similar nature having been registered against him; that the complainant has also instituted Civil Suit No.161 of 2024 for recovery and damages; and that, despite examination-in-chief of the complainant and one Samiullah having been

recorded on 16.09.2025, the defence failed to cross-examine on that date, reflecting lack of bona fides and an intent to delay the proceedings.

5. The punishment prescribed for the offence under section 489-F, P.P.C. is imprisonment which may extend to three years, or with fine, or with both, and the offence thus plainly falls outside the prohibitory sweep of section 497(1), Cr.P.C. The august Supreme Court has consistently held that in offences not falling within the prohibitory clause, grant of bail is the norm and refusal is an exception, and that, in such category, the onus shifts to the prosecution to demonstrate exceptional or extraordinary circumstances warranting denial of this concession.

6. In *Tariq Bashir and others v. The State* (**PLD 1995 SC 34**), the apex Court authoritatively declared that in non-bailable offences punishable with imprisonment of less than ten years, grant of bail is a rule and refusal an exception, permissible only in extraordinary situations such as likelihood of abscondence, apprehension of tampering with the prosecution evidence, danger of repetition of the offence or previous conviction. In the later pronouncement reported as **2022 SCMR 1467,** while dealing specifically with section 489-F, P.P.C., the Supreme Court reiterated that the maximum punishment thereunder is three years; that the offence does not fall within the prohibitory clause; that section 489-F, P.P.C. is not to be employed as a mechanism for recovery of alleged amounts, for which civil fora provide appropriate remedies; and that in such circumstances the case, at least, falls within the purview of section 497(2), Cr.P.C., entitling the accused to post-arrest bail.

7. It emerges from the above jurisprudence that where section 489-F, P.P.C. is invoked, the statutory maximum of three years' imprisonment keeps the matter outside the prohibitory clause, with the consequence that bail is to be viewed favourably and may be declined only upon clear

demonstration of truly exceptional factors. Mere multiplicity of F.I.Rs., in the absence of any conviction, does not, by itself, furnish a legally sustainable ground to divest an accused of liberty in such non-prohibitory offences, particularly when the criminal process cannot be perverted into a device for coercive recovery.

8. Evaluated against this jurisprudential backdrop and at the tentative stage mandated for bail consideration, certain salient features of the present record bring the matter within the ambit of further inquiry under section 497(2), Cr.P.C. Firstly, the F.I.R. was lodged after an apparent delay of about six months from the alleged impugned transaction without any satisfactory explanation surfacing thus far, thereby casting doubt on the spontaneity and immediacy of the accusation. Secondly, the defence plea that the cheque was issued as a "security" in the context of an underlying commercial transaction relating to sale of immovable property and a subsequent alleged settlement, coupled with the pendency of civil litigation between the parties, strongly indicates that the exact nature, quantum and enforceability of the alleged liability are matters of serious contestation, more appropriately determinable in trial or civil proceedings rather than through pre-trial incarceration.

9. It further appears that the purported written agreement and accompanying video recording, relied upon by the complainant as memorializing the alleged settlement, have not yet been subjected to any credible forensic examination, nor has the prosecution placed before the Court any technical evaluation of such material, which reinforces the conclusion that the case calls for further inquiry. The delicate line between pure civil liability arising from a commercial undertaking and criminal culpability under section 489-F, P.P.C. turns upon proof of contemporaneous dishonest intention at the time of issuance of the cheque

in respect of a subsisting, admitted obligation, a question which must ultimately be resolved on evidence at trial.

10. As to the contention regarding other F.I.Rs. of similar genre registered against the applicant, the law, as distilled in the aforesaid judgments, is that mere registration of multiple cases, sans any resulting conviction, cannot, in a non-prohibitory offence, be elevated to a conclusive ground for denial of bail; at the most, it may justify the imposition of stringent conditions or closer monitoring, but not the conversion of pre-trial detention into a form of anticipatory punishment.

11. The stage of proceedings is likewise relevant. The challan stands submitted, charge framed, and examination-in-chief of the complainant and one witness has already been recorded, signifying that the prosecution evidence has commenced and that the applicant's continued detention is not shown to be indispensable for any remaining investigative purpose. The omission of the defence to cross-examine on a particular date, though certainly undesirable, is a matter to be regulated and, if necessary, penalized by the trial Court through appropriate orders; it does not, in itself, furnish a tenable ground to perpetuate incarceration in an offence outside the prohibitory clause.

12. In the light of the settled principle that in offences not falling within the prohibitory ambit of section 497, Cr.P.C., bail is a rule and jail an exception, and keeping in view the features adverted to above which render the prosecution case one of further inquiry within the contemplation of section 497(2), Cr.P.C., I am persuaded, tentatively, that the applicant has succeeded in bringing his case within the parameters justifying grant of post-arrest bail. No extraordinary or exceptional circumstance has been demonstrated by the learned D.P.G. or learned counsel for the complainant

that would warrant withholding this concession in the peculiar facts obtaining here.

13. 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 P.R. bond in the like amount to the satisfaction of the learned trial Court.

14. It is, however, clarified that the observations made herein are purely tentative, confined to the adjudication of the present bail application and shall not prejudice the learned trial Court, which shall decide the case strictly on the basis of evidence recorded before it, uninfluenced by any remark contained in this order.

J U D G E