

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 3008 of 2025.

Applicant : Shankar Lal through Mr.Munawar Ali,
Advocate.

Complainant : Wishal through Mr. Waryam Ali Kalhor,
Advocate.

Respondent : The State through Ms. Muhammad
Noonari, D.P.G.

Date of hearing : 14.01.2026.

Date of order : 06.02.2026.

ORDER.

TASNEEM SULTANA-J.:- Through this Criminal Bail Application, the applicant/accused shanker Lal seeks post-arrest bail under section 497, Cr.P.C., in Crime No.360/2025, registered at Police Station Hyderi Market, Karachi, for the offence under section 489-F, P.P.C.Having been rejected his earlier post arrest bail No.2459 of 2025 passed by learned Additional Sessions Judge -III Karachi, Central, vide order dated 29.10.2025 as well as post arrest bail application No.114 of 2025 passed by learned VI Civil Judge & Judicial Magistrate, Karachi-Central, vide order dated 08.10.2025, hence this bail application for same concession

2. Brief facts of the prosecution case are that complainant Wishal lodged report stating therein that he was involved in committee/ business dealings with the applicant and his family during the years 2024 and 2025. It is alleged that the complainant participated in 20 committees, valuing Rs.2,900,000/-, and upon demanding his due amount, the applicant avoided payment. It is further alleged that on 25.06.2025, the applicant, along with his wife Kajal Kumari, in presence of witnesses namely Rattan Lal and Simat Kumar, visited the complainant at Karachi and issued cheque bearing No. 66994962 for an amount of Rs.20,090,000/-, drawn on United Bank Limited. The complainant deposited the said cheque in his bank account; however, upon presentation, it was dishonoured on the ground of "Closed/Inactive Account", as reflected from the Cheque Return Memo. On these allegations, the present FIR came to be lodged and the applicant was arrested.

3. Learned counsel for the applicant argued that the applicant has been falsely implicated due to malice and personal vendetta stemming from monetary disputes and alleged pressure tactics; that the real dispute is with one Ms. Daina Kumari, who, according to the defence, is sister of the complainant and holds a responsible judicial position; that the applicant and said Ms. Daina Kumari had long standing business/committee dealings; that the applicant, due to business losses, could not continue payments; that under threats and mental torture, the applicant allegedly handed over blank cheques, which were later filled in with an exaggerated amount; that voice recordings and WhatsApp communications exist, indicating that the cheques were given blank and were to be filled later, and that threats were extended to the applicant and his family regarding lodging of FIRs; that the applicant had moved the bank for stop payment instructions prior to registration of FIR, which shows absence of dishonest intention; that section 489-F, P.P.C., provides alternative punishments and the case falls within the non-prohibitory clause; therefore, bail is a rule and refusal is an exception; that the matter is of civil nature and requires further inquiry. In support of his submissions, learned counsel for the applicant relied upon cases reported as *Ali Anwar Paracha v. The State and another* (2024 SCMR 1596), *Abdul Rasheed v. The State and another* (2023 SCMR 1948), *Noman Khaliq v. The State* (2023 SCMR 2122), *Zafar Nawaz v. The State and another* (2023 SCMR 1977), *Mohammad Nanveer v. The State and another* (PLD 2017 Supreme Court 733) and *Tariq Bashir and 5 others v. The State* (PLD 1995 Supreme Court 34).

4. Conversely, learned APG for the State as well as learned counsel for the complainant opposed the bail application. It was contended that the applicant is specifically nominated with a clear allegation of issuance of cheque which was dishonoured not due to any technical defect, but for the reason that the account was already closed/inactive, which itself demonstrates mens rea and dishonest intention; that the applicant has taken inconsistent pleas before different forums, and that the defence story regarding blank cheques, threats, and alleged recordings is an afterthought, which requires strict proof and cannot be accepted at bail stage.

5. Heard. Record perused.

6. A tentative but careful assessment of the record reflects that the applicant is facing prosecution under section 489-F, P.P.C., an offence which does not fall within the prohibitory clause of section 497, Cr.P.C.

and carries alternative punishment. The prosecution has placed prima facie material on record in support of the allegation of dishonour of a cheque allegedly issued by the applicant in favour of the complainant, which on presentation was returned unpaid with the endorsement "closed/inactive account". However, at bail stage, even the existence of such prima facie material does not, by itself, conclusively establish the requisite mens rea, particularly where the surrounding circumstances disclose a disputed and unsettled financial relationship between the parties.

7. The defence version, as borne out from the record, is that the parties were engaged in ongoing business, committee and monetary dealings involving multiple transactions and rolling accounts over a period of time; that the cheque in question was handed over as a blank/security cheque in the context of such continuing dealings; and that the amount subsequently filled therein is seriously disputed and alleged to be inflated. Prima facie, the material collected by the prosecution does not unequivocally reflect existence of a clearly crystallised, admitted or finally determined liability at the time of alleged issuance of the cheque, which is a foundational requirement for attracting criminal culpability under section 489-F, P.P.C. In the absence of such prima facie crystallisation of liability, attribution of dishonest intention at the threshold remains a matter requiring evidence rather than presumption.

8. Whether the cheque was issued towards repayment of a legally enforceable obligation, whether it was filled with consent, whether the amount mentioned corresponds to the actual liability, and whether dishonest intention existed at the time of issuance, are questions which go to the root of the offence and cannot be conclusively determined without recording of evidence. At bail stage, the Court is neither expected nor permitted to undertake a deeper appreciation of such disputed factual and evidentiary matters.

9. The material placed on record reflects existence of allegations and counter-allegations arising out of financial dealings between the parties, which demonstrates that although prima facie prosecution material exists, the case is not free from doubt and calls for further probe through evidence. At this stage, the prosecution material does not appear to be of such a nature as to render continued incarceration of the applicant imperative as a matter of course.

10. It is also relevant that the offence carries alternative punishment and does not entail severe sentence. The applicant is not shown to be a

previous convict, nor has any material been pointed out suggesting that he is likely to abscond, misuse the concession of bail, or tamper with the prosecution evidence. Continued detention of the applicant, when the core issues relate to disputed liability and intention, would amount to pre-trial punishment, which is alien to the concept of bail. Reliance is placed on the case of Ali **Anwar Paracha v. The State and another (2024 SCMR 1596)** wherein honourable Supreme Court held as under:

In this view of the matter, the question whether the cheque was issued towards fulfilment of an obligation within the meaning of section 489-F, P.P.C. is a question, which would be resolved by the learned Trial Court after recording of evidence. The petitioner is behind the bars since his arrest. The maximum punishment provided under the statute for the offence under section 489-F, P.P.C. is three years and the same does not fall within the prohibitory clause of section 497, Cr.P.C. which prohibits that grant of bail in the offences not falling within the prohibitory clause is a rule and refusal is an exception.

In another case reported as **Noman Khaliq v. The State and another (2023 SCMR 2122)**, honourable Supreme Court observed as under:

However, it is the stance of the petitioner that the cheques were not issued towards repayment of loan or fulfillment of an obligation and the same were issued in respect of the joint business. Admittedly, the petitioner and the complainant were in business relations. This Court in the case of Abdul Saboor v. The State (2022 SCMR 592) has categorically held that 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. In this view of the matter, the question whether the cheques were issued towards repayment of loan or fulfillment of an obligation within the meaning of section 489-F, P.P.C. is a question, which would be resolved by the learned Trial Court after recording of evidence. The petitioner is behind the bars for the last about five months. The maximum punishment provided under the statute for the offence under section 489-F, P.P.C. is three years and the same does not fall within the prohibitory clause of section 497, Cr.P.C. It is settled law that grant of bail in the offences not falling within the prohibitory clause is a rule and refusal is an exception. Reliance is placed on Tariq Bashir v. The State (PLD 1995 SC 34). This Court in a number of cases has held that liberty of a person is a precious right which cannot be taken away without exceptional foundations. We have been informed that all the material is in documentary shape; the investigation is complete and the petitioner is no more required for further investigation. So far as the argument of the learned Law Officer about the absconding of the petitioner is concerned, it is settled law that absconding cannot be viewed as a proof for the offence and the same alone cannot be made a ground to discard the relief sought for. Reliance is placed on Rasool Muhammad v. Asal Muhammad (1995 SCMR 1373) and Muhammad Tasaweer v. Hafiz Zulkarnain (PLD 2009 SC 53). Taking into consideration all the facts and circumstances stated above, we are of the view that the case of the petitioner

squarely falls within the ambit of section 497(2), Cr.P.C. entitling for further inquiry into his guilt.

11. In view of the above circumstances and keeping in mind the settled principle that in offences not falling within the prohibitory clause bail is a rule and refusal an exception, the case of the applicant falls within the ambit of further inquiry as envisaged under section 497(2), Cr.P.C., entitling him to the concession of post-arrest bail. Consequently instant bail application is allowed. Applicant is granted post arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/= (Rupees two hundred thousands only) and P.R bond in the like amount to the satisfaction of Nazir of this Court.

12. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE

Shabir/PS