

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**Cr. Bail Application No.S-108 of 2026.***(Munir Ahmed Vs. The State)*

Applicant / Accused	Munir Ahmed through M/s. M.M. Taha Khan, Bakhtawar Naz Shah and Junaid Imran Shaikh, Advocates.
Complainant	Muhammad Shabbir through Ms. Falak Gul Fatima, Advocate.
The State	Through Mr. Irfan Ali Talpur, Deputy Prosecutor General.
Date of hearing:	02.03.2026.
Date of decision:	02.03.2026.

ORDER

RIAZAT ALI SAHAR, J.- The applicant seeks post-arrest bail in a case bearing crime No.153/2025, for offence under Section 489-F PPC of PS Makki Shah, District Hyderabad. Earlier the bail plea of applicant/accused was declined firstly by the learned Judicial Magistrate-XI, Hyderabad vide order dated 15.12.2025 and onward by the learned Additional Sessions Judge-III, Hyderabad vide order dated 08.01.2026.

2. Succinctly stated, the prosecution case is that the complainant, Muhammad Shabbir, paid an amount of Rs.4,230,000/- to the applicant/accused in 2021 for business purposes in the presence of witnesses. Upon persistent demands by the complainant for repayment, the applicant issued a cheque dated 09.09.2025 for Rs.4,230,000/-. However, upon presentation, the said cheque was dishonoured.

3. Learned counsel representing applicant / accused reiterated that the applicant is innocent and has been falsely roped in a criminal case; that the FIR is delayed more than fifteen days and there is no plausible explanation in this regard. It is further submitted that the case does not fall within the prohibitory clause of Section 497 Cr.P.C. Lastly placed reliance on certain case laws, which are available on record.

4. Conversely, learned Deputy Prosecutor General duly assisted by the learned Advocate for complainant vehemently opposes the bail application, submitting that the dishonoured cheque was issued by the applicant and the same fulfills the ingredients of Section 489-F PPC. He argued that applicant/accused obtained amount from complainant in presence of witnesses and in lieu of such transaction, the applicant issued a cheque from his account which on presentation has been dishonored. As such, prima facie ingredients of the offence under Section 489-F PPC are fully satisfied.

5. Heard learned counsel for parties as well as learned D.P.G for the State and have perused the available record with their assistance.

6. The complainant claims that the subject cheque was issued by the applicant because a sum of Rs.4,230,000/- was paid to the applicant; however, such a fact has been denied by the applicant. The basic principle in such cases is that mere issuance of cheques, does not constitute an offence unless it is established that the same was/were issued for repayment of a loan or fulfillment of an obligation, and with dishonest intention. It appears that the investigation is complete, and no useful purpose would be served by keeping the applicant behind bars, especially when the entire evidence is documentary in nature, which is already in custody of the prosecution. The principles settled by the Supreme Court in '**Mian Allah Ditta v. The State and others**' (2013 SCMR 51) are that every transaction where a cheque is dishonoured would not constitute an offence in the absence of dishonesty.

7. Further, in '**Ali Anwar Paracha v. The State and another**' (2024 SCMR 1596), the Honourable Supreme Court has held that the essential ingredients to constitute an offence under Section 489-F, P.P.C. are: the issuance of a cheque, the existence of a legally enforceable obligation, and the presence of dishonest intention behind such issuance. It was further elucidated that the spirit of Section 489-F mandates that unless the element of "obligation" is first established, the attribution of "dishonesty" would be difficult to sustain, and in the absence thereof, the basic ingredients required to frame a charge under the said provision would remain unfulfilled. The question as to

whether the applicant acted with fraudulent or dishonest intention from the very inception of the transaction, or whether the dispute has subsequently assumed the character of a purely civil liability, is essentially a matter which can only be determined after the recording and proper appreciation of evidence at trial. It is a settled principle of criminal jurisprudence that where a transaction potentially gives rise to both civil and criminal consequences, the element of fraudulent intent must be established through evidence, and until such determination is made, the matter may legitimately fall within the ambit of "further inquiry" as contemplated under Section 497(2), Cr.P.C. In the present case, a tentative assessment of the record does not reveal the existence of either the essential ingredient or "obligation" or that of "dishonesty", thereby making the case one of further inquiry within the meaning of Section 497(2), Cr.P.C. Moreover, the cheque in question is already in the possession of the complainant and no recovery whatsoever is to be effected from the applicant; therefore, the continued incarceration of the applicant at this stage would serve no useful purpose for the prosecution.

8. The upshot of the foregoing discussion is that on a tentative assessment on the basis of available material, and in view of the ratio laid down in the authorities referred to hereinabove, this application was allowed on the terms already announced in the short order dated 02.03.2026. The applicant, however, shall remain bound to fully cooperate with the learned trial Court and shall not seek unnecessary adjournments during the course of trial. It is further clarified that in case the concession of bail is misused in any manner, the learned trial Court shall be at liberty to initiate proceedings for cancellation of bail in accordance with law, without making any reference to this Court. Needless to observe that the observations made hereinabove are purely tentative in nature and shall not influence the learned trial Court while deciding the case on its own merits in an independent and impartial manner. These are the reasons for my **short order dated 02.03.2026**. Let copy of this order be transmitted to Additional Sessions Judge-III Hyderabad for future guidelines.

JUDGE