

IN THE HIGH COURT OF SINDH AT KARACHI.

Criminal Bail Application No. 316 of 2026

Applicant : Farrukh Khan through Mr. Muhammad Aslam, Advocate.

Complainant : Muhammad Yaseen through Mr. Ilyas Khan, Advocate.

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

Date of hearing : 31.3.2026.

Date of order : 31.3.2026.

ORDER.

TASNEEM SULTANA-J.:- Through this Criminal Bail Application, applicant seeks pre-arrest bail arising out of Crime No.388/2025 registered under Section 489-F PPC at PS Eidgah, Karachi. Having been rejected his earlier Cr. Bail Appln. No.4880/2025 by learned Additional Sessions Judge-X, Karachi South, vide order dated 22.01.2026, hence this application for the same concession.

2. The brief facts of the prosecution case are that the complainant had business dealings with the applicant for supply of hardware goods for the last three years, during which the applicant obtained goods on part payments, resulting in an outstanding amount of Rs. 38,63,525/-. Upon demand, the applicant allegedly issued two cheques bearing No. 6628500 for Rs. 4,62,150/- and No. 6628501 for Rs. 40,13,800/-, both dated 30.09.2025, drawn on Meezan Bank, Bohra Pir Branch, which upon presentation on 01.10.2025 were dishonoured due to "payment stopped". Despite repeated demands, payment was not made, whereafter the instant FIR was lodged.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that the cheques in question were issued as blank security cheques during prior business dealings, which have been misused by the complainant; that mere issuance of cheques, in the present circumstances, does not attract the offence under Section 489-F PPC; that the provision requires dishonest intent in issuing a cheque towards a legally enforceable liability, which is lacking in the present case; that the matter is purely of a civil nature relating to business transactions and reconciliation of accounts and, thus, calls for further inquiry; that there is an inordinate delay of about two and a half months in lodging the FIR, which has not been explained; that the alleged offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; and that he, therefore, prayed for confirmation of pre-arrest bail.

4. Conversely, learned Addl. P.G duly assisted by learned counsel for the complainant, opposed the bail; however, they could not dispute the admitted business relationship between the parties.

5. Heard. Record perused.

6. It appears that there existed long-standing business relations between the parties involving supply of goods on credit, for which the applicant was making part payments to the complainant. The dispute essentially arises out of financial transactions between the parties relating to reconciliation of accounts, which, prima facie, appears to be of a civil nature.

7. *The applicant has taken the plea that the cheque(s) in question were issued as security during prior dealings and were subsequently misused. In the circumstances, it requires determination whether the cheque(s) were issued as security or in discharge of a legally enforceable liability, which can only be ascertained after recording of evidence by the trial Court. Thus, the case falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. It is settled that where, on a tentative assessment, no reasonable grounds exist to believe that the accused has committed the offence and the matter calls for further inquiry, the accused is entitled to the concession of bail. Reliance is placed on Salman Mushtaq & others v. The State through P.G. Punjab and another (2024 SCMR 14).*

“.....While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....”

8. The offence under Section 489-F PPC carries punishment upto three years, hence it does not fall within the prohibitory clause of Section 497 (1) Cr. P.C. Reliance is placed in the case of Abdul Rasheed v. The State, (2023 SCMR 1948) wherein the Supreme Court has ruled as follows:

“Even otherwise, even if the complainant wants to recover his money, Section 489-F of PPC is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. In view of the above, the question of whether the cheques were issued towards repayment of the loan or fulfillment of an obligation within the meaning of Section 489 F PPC is a question, which would be resolved by the learned Trial Court after the recording of evidence. The maximum 2 punishment provided under the statute for the offense under Section 489-F PPC 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 offenses not falling within the prohibitory clause is a rule and refusal is an exception.”

9. Similar view was taken by Hon'ble Supreme Court in the case of **Abdul Saboor Vs. The State through A.G KPK & another (2022 SCMR 592)**. It was further emphasized that Section 489-F PPC is not intended to serve as a tool for monetary recovery, which is the domain of civil litigation under Order XXXVII of the Civil Procedure Code. It was reiterated that bail is the rule and refusal an exception in non-prohibitory offences, citing **Muhammad Tanveer case (PLD 2017 SC 733)** wherein it was observed that the allegations involved factual controversies to be determined at trial and that further inquiry was warranted under Section 497(2) Cr.P.C, the Court allowed the petition, converted it into an appeal, and granted bail.

10. In view of above facts and circumstances, the learned counsel for applicant has succeeded to make out this case for further inquiry as envisaged under section 497 (2) Cr.P.C. Consequently, the instant Bail Application was allowed, and the interim pre-arrest bail granted to the applicant, Farrukh Khan , vide order dated 29.01.2025 , is confirmed on the same terms and conditions. These are the reasons for my short order dated 31.03.2026.

11. Observations made herein are tentative in nature and shall not influence the trial Court in deciding the case on merits.

JUDGE

“