

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 772 of 2026

Applicant : Muhammad Minhas Qazi
son of Muhammad Ilyas Qazi
through M/s. Fateh Iftikhar
& Ms. Nageen, Advocates

Complainant : Muhammad Salam Qureshi
son of Muhammad Tahir Qureshi
through M/s. Syed Muhammad
Abdul Kabir and Mr. Babar Ali,
Advocates

The State : Through Ms. Seema Zaidi,
Additional Prosecutor General,
Sindh

Date of hearing : 29.04.2026

Date of decision : 29.04.2026

ORDER

Jan Ali Junejo, J.- This is a post-arrest bail application filed by the applicant/accused Muhammad Minhas Qazi son of Muhammad Ilyas Qazi in FIR No.29 of 2025, registered at Police Station Soldier Bazar, Karachi under Section 489-F PPC. The applicant has approached this Court being aggrieved by the order dated 03.03.2026 passed by the learned Additional Sessions Judge-V/MCTC, Karachi East whereby his bail application was declined.

2. Briefly stated, the prosecution case is that the complainant alleged to have advanced an amount of Rs.10,00,000/- to the applicant for purchase of property. In order to discharge the alleged liability, the applicant issued cheque No.23631122 dated 28.01.2024 drawn on NBP Sharifabad Branch, Karachi, which upon presentation was dishonored on account of "insufficient fund". Despite repeated demands, the applicant allegedly failed to make payment, whereafter the FIR was lodged.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. It was argued that the dispute is purely civil in nature and arises out of private financial dealings. The cheques were not issued in discharge of any

legally enforceable liability but were allegedly given as security. He also contended that applicant/accused is ready to give the amount to the complainant but the complainant is demanding more additional amount of Rs.5,00,000/-. Learned counsel further pointed out that there is an unexplained delay of about twelve months in lodging of the FIR. Lastly, it was prayed that as the offence does not fall within the prohibitory clause of Section 497 Cr.P.C., the applicant is entitled to the concession of bail.

4. Learned counsel for the complainant opposed the bail application on the ground that the applicant has admitted issuance and signatures on the cheque. It was argued that a huge amount is involved and the applicant has committed financial murder of the complainant. It was further contended that the cheques were issued towards repayment of liability and that the defence version is an afterthought. Learned counsel prayed for dismissal of the bail application.

5. Learned Additional Prosecutor General, Sindh, adopted the arguments advanced by the complainant's counsel and further contended that sufficient material exists connecting the applicant with the commission of the alleged offence. Prayer was made for dismissal of the bail application.

6. I have heard the learned counsel for the parties and perused the available record with due care and circumspection. At this stage, the Court is not required to undertake a deeper appreciation of evidence; rather, it is to make a tentative assessment of the material available on record. For attracting the provisions of Section 489-F, P.P.C., the prosecution is required, at least prima facie, to establish the following essential ingredients: (i) issuance of a cheque by the accused; (ii) issuance of such cheque dishonestly; (iii) existence of a legally enforceable debt, liability, or obligation; (iv) knowledge or mens rea at the time of issuance that the cheque would be dishonoured; and (v) dishonour of the cheque upon its presentation. It is by now settled law that mere dishonour of a cheque, by itself, does not constitute an offence under Section 489-F, P.P.C., unless all the aforesaid ingredients coexist. A careful perusal of the FIR, challan, and annexed material reveals that the complainant does not disclose any privity of contract between himself and the present applicant. The prosecution record is silent as to when, where, and in what manner the alleged cheque was issued by the present applicant in

discharge of any liability. The mode of transaction, consideration, and foundation of liability have not been disclosed, which are fundamental prerequisites for invoking Section 489-F PPC. Equally significant is the fact that the FIR does not allege any dishonest intention (mens rea) on the part of the present applicant at the time of issuance of the cheque. There is no assertion that the applicant knowingly issued the cheque with the intention that it would be dishonoured. In the absence of such allegation, the essential element of dishonesty, being the soul of Section 489-F PPC, remains unestablished at this stage.

7. In view of the absence of: privity of contract, disclosure of any subsisting debt or liability, and allegation of dishonest intention attributable to the present applicant, the core ingredients of Section 489-F PPC cannot be conclusively determined without recording of evidence. These aspects require deeper probe and proper appreciation at trial. Consequently, the case, so far as the present applicant is concerned, squarely falls within the ambit of "further inquiry" as envisaged under Section 497(2) Cr.P.C.

8. It is further observed that: The FIR has been lodged after a considerable unexplained delay; The alleged transaction appears to be predominantly civil in nature; The offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; and Bail is not to be withheld as a measure of punishment.

9. The offence under Section 489-F PPC carries a maximum punishment of three years and does not fall within the prohibitory clause of Section 497 Cr.P.C. No recovery is required to be effected from the applicant and the investigation is already complete. There is also no material on record to show that the applicant is likely to abscond or tamper with the prosecution evidence. In non-prohibitory offences, bail is a rule and refusal is an exception. The case, at the present stage, appears to be one of further inquiry within the meaning of Section 497(2) Cr.P.C. In case where bail was granted in an offence under Section 489-F, P.P.C. i.e., ***Ali Anwar Paracha v. The State and another (2024 SCMR 1596)***, the Honourable Supreme Court of Pakistan held that: *"In this view of the matter, the question whether the cheque was issued towards 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 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. 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". In another similar offence under Section 489-F, P.P.C., in the case of **Muhammad Anwar v. The State and another (2024 SCMR 1567)**, the Honourable Supreme Court of Pakistan was pleased to grant bail by observing that: "In view of the above, 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 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".*

9. The failure to satisfy the complainant's financial claim, which is the very subject matter of the dispute, cannot be made a ground to deny the concession of bail. To hold otherwise would amount to converting the bail process into a debt recovery mechanism, which is wholly alien to the spirit of criminal jurisprudence. In similar circumstances, the Honourable Supreme Court of Pakistan in the case of **Abdul Rasheed v. The State and another (2023 SCMR 1948)** has held that: "Even otherwise, even if the complainant wants to recover his money, 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".

10. For the foregoing reasons, this Criminal Bail Application is allowed and the applicant/accused Muhammad Minhas Qazi son of Muhammad Ilyas Qazi is admitted to bail in FIR No.29 of 2025, under Section 489-F PPC, registered at Police Station Soldier Bazar, Karachi, subject to furnishing solvent surety in the sum of Rs.50,000/- and P.R. bond in the like amount to the satisfaction of the learned Trial Court. Needless to observe that the above observations are tentative in nature and shall not prejudice the case of either party at trial. These are the detailed reasons of the Short Order dated: 29.04.2026.

JUDGE