

# HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-1371 of 2025  
*[Shahid Mahmood versus The State]*

Applicant by: Mr. Ahsan Gul Dahri advocate  
Complainant by: Mr. Faisal Farooque Thaheem advocate  
State by: Mr. Altaf Hussain Khokhar D.P.G  
Date of hearing 15.06.2026  
Date of Order 15.06.2026

## **ORDER**

**TASNEEM SULTANA, J:** Through the instant application, applicant Shahid Mahmood seeks pre-arrest bail in Crime No.125 of 2025 registered at P.S Talhar District Badin under Section 489-F and 420 PPC. His earlier bail application for the same relief being CrI. Bail Application No.1313 of 2025 has been declined by the Additional Sessions Judge-I Badin vide Order dated 29.10.2025.

2. The allegations against the applicant/accused is that he obtained the 455 acres land from complainant on lease for four years @ Rs.90,000/- each per year total amounting to Rs.4,09,50,000/- and in lieu thereof issued various cheques of different dates out of which all were honoured while one become dishonored, hence this FIR.

3. Learned counsel for the applicant contents that applicant is innocent and all the story narrated by the complainant is concocted one; that there is delay of about one year and seven months in registration of FIR; that the applicant had not issued any cheque in favour of the complainant; that the issue between the parties is purely of civil nature but the complainant tried to convert it into criminal one; that admittedly all other cheques were honored, which fact alone is sufficient to brush-aside the allegation of malafide on part of applicant/accused; that co-accused have already been granted pre-arrest bail by the trial Court, therefore, the applicant is also entitled for same relief.

4. Conversely, learned D.P.G., assisted by learned counsel for the complainant, opposed the grant of bail and contended that the cheque issued by the applicant was dishonoured upon its presentation; that sufficient material exists connecting the applicant with commission of offence; and that dishonest intention on part of the applicant is apparent from his conduct; that the case of present applicant is on different footings

as such he cannot claim concession of bail on rule of consistency. However, they could not satisfactorily explain the delay in registration of FIR

5. Heard and record perused.

6. A tentative assessment of the material available on record indicates that the dispute between the parties primarily arises out of a transaction relating to the obtaining land on lease for four years and the consequent dispute regarding payment. The record further reflects that prior to registration of the instant FIR, the brother of the applicant had instituted F.C Suit No.83 of 2025 before the concerned Civil Court for declaration, cancellation of cheque, lease agreement and permanent injunction. This circumstance prima facie suggests that the controversy between the parties has arisen out of a civil and commercial dispute.

7. The cheque in question is stated to have been issued for 25.04.2025, whereas the FIR was lodged on 21.08.2025 after an unexplained delay of about four months. The prosecution has not furnished any plausible explanation for such delayed recourse to criminal proceedings. Prima facie, such delay, particularly when viewed alongside the admitted prior disputes and proceedings between the parties concerning the same transaction, calls for deeper appreciation of evidence during trial.

8. It appears that different cheques were issued in lieu of lease money in the name of brother of complainant instead of in the name of complainant. Even though admittedly all the cheques, except one in question, were honored. Record further reflects that brother of applicant also instituted civil suit, as referred to above, relating to same business transaction. Therefore, at least tentatively, the material available on record makes the case of the applicant one of further inquiry within the contemplation of Section 497(2), Cr.P.C.

9. Furthermore, the offence under Section 489-F PPC carries maximum punishment of three years and does not fall within the prohibitory clause of Section 497 Cr.P.C. The settled principle of law is that in offences not falling within the prohibitory clause, grant of bail is a rule and refusal is an exception. Reliance in this regard may beneficially be placed upon the case of Abdul Rasheed v. The State (2023 SCMR 1948), wherein the Hon'ble Supreme Court observed as under:

*“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 whether the cheques were issued towards repayment of the loan or fulfilment of an obligation within the meaning of Section 489-F PPC 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 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 offences not falling within the prohibitory clause is a rule and refusal is an exception.”*

10. Similarly, in the case of Abdul Saboor v. The State through A.G. KPK & another (2022 SCMR 592), the Hon’ble Supreme Court of Pakistan observed that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. and that since the maximum sentence provided under Section 489-F PPC is three years, bail should generally be granted rather than refused. The Hon’ble Supreme Court 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.

11. In view of the above facts and circumstances, the applicant has made out a case for the grant of pre-arrest bail. Consequently, the instant bail application is allowed and the interim pre-arrest bail granted to the applicant vide order dated 11.11.2025 is hereby confirmed on the same terms and conditions.

12. Needless to mention here that the observations made herein above are tentative in nature and shall not influence the learned trial Court while deciding the case on merits.

JUDGE