

# HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-1296 of 2025  
[Fakhruddin versus The State]

Applicant by: Mr. Ahmed Murtaza Arab advocate  
Complainant by: Mr. Zulfiqar Ali Korai advocate  
State by: Mr. Khalid Hussain Lakho D.P.G  
Date of hearing 18.06.2026  
Date of Order 18.06.2026

## **ORDER**

**TASNEEM SULTANA, J:** Through the instant application, applicant Fakhruddin seeks pre-arrest bail in Crime No.75 of 2025 registered at P.S Bandhi under Section 489-F PPC. His earlier bail application for the same relief being CrI. Bail Application No.2206 of 2025 has been declined by the Additional Sessions Judge-I Shaheed Benazirabad vide Order dated 18.10.2025.

2. Brief facts of the prosecution case are that on 26.12.2024 at about 06:00 p.m., the applicant Fakhruddin along with his brother Salahuddin allegedly purchased Toyota Corolla Altis 1.6, model 2022, bearing registration No.BWL-643, from complainant Kashif Ali against total sale consideration of Rs.72,00,000/-. In lieu thereof, the applicant allegedly issued two cheques of Rs.36,00,000/- each, bearing No.1940283668 dated 25.04.2025 and No.1940283669 dated 05.05.2025, drawn on MCB Bank, Darya Khan Mari Branch. It is further alleged that after receiving the original file of the vehicle, the applicant and his brother delayed payment and, when the cheques were presented through Meezan Bank, Daur Branch, the same were dishonoured due to insufficient funds; hence, the subject FIR was lodged.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that the FIR has been lodged with unexplained delay, though the cheques were allegedly payable on 25.04.2025 and 05.05.2025; that the transaction mentioned in the FIR relates to sale and purchase of a vehicle between the parties; that prior to registration of the FIR, the applicant and his brother had approached different forums, including filing of F.C. Suit No.138 of 2025 before the learned IInd Senior Civil Judge, Nawabshah, for declaration, settlement of accounts, cancellation of cheques/documents and injunction; that complaints and applications under Sections 22-A and 22-B, Cr.P.C. were

also moved from the applicant's side regarding harassment and coercive conduct; that the complainant has misused the cheques in order to pressurize the applicant; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; and that the case calls for further inquiry. He lastly submits that the interim pre-arrest bail granted to the applicant may be confirmed.

4. Conversely, learned D.P.G., assisted by learned counsel for the complainant, opposes the bail application and contends that the applicant issued the cheques in question against sale consideration of the vehicle; that the cheques were presented before the Bank and dishonoured due to insufficient funds; that the complainant has been deprived of the vehicle as well as its sale consideration; that pendency of civil proceedings does not absolve the applicant from criminal liability under Section 489-F, PPC; and that the applicant is not entitled to extraordinary relief of pre-arrest bail. However, no satisfactory explanation could be offered for the delay in lodging of the FIR.

5. Heard. Record perused.

6. It appears from the record that the alleged cheques were not issued in isolation, but are connected with a vehicle sale transaction between the parties. The complainant's own case is that Toyota Corolla Altis 1.6, model 2022, bearing registration No.BWL-643, was sold against total consideration of Rs.72,00,000/-, against which the disputed cheques were issued. The record further shows that prior to registration of the present FIR, the applicant Fakhruddin and his brother Salahuddin had instituted F.C. Suit No.138 of 2025 before the learned IInd Senior Civil Judge, Nawabshah, for declaration, settlement of accounts, cancellation of cheques/documents and injunction. In these circumstances, the controversy between the parties appears to have a civil and commercial complexion, and the question whether the cheques were issued dishonestly in discharge of a legally enforceable obligation, or whether the same relate to disputed dealings between the parties, cannot be conclusively determined at bail stage.

7. It further appears that the cheques in question were allegedly dated 25.04.2025 and 05.05.2025, whereas the FIR was lodged on 02.09.2025 after delay of about four/five months. No satisfactory explanation has been furnished for such delayed recourse to criminal proceedings. This aspect, when viewed in the context of previous civil proceedings, complaints and counter-complaints between the parties, makes the matter one requiring

further inquiry under Section 497(2), Cr.P.C.

8. 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.”*

9. 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.

10. 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 23.10.2025 is hereby confirmed on the same terms and conditions.

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

JUDGE