

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2352 of 2025.

Applicant : **Khuda Bux** through Mr.Mohammad Moosa, Advocate.

Respondent : The State through Mr. Mohammad Noonari, D.P.G. Sindh

Date of hearing : 10.3.2026.

Date of order : 10.3.2026.

ORDER

TASNEEM SULTANA-J.:- Through this Criminal Bail Application, the applicant Khuda Bux seeks pre-arrest bail in Crime No.451/2025, registered under Sections 489-F/34 PPC at Police Station Steel Town, Karachi. Having been rejected his earlier post arrest bail application No.3309 of 2025 by learned Additional Sessions Judge-IV, Malir Karachi vide order dated 18.08.2025, hence this application for same concession.

2. Brief facts of the prosecution case are that complainant Taj Muhammad he sold his house situated at Eidu Goth for Rs.27,50,000/- to Khuda Dino Khaskheli, while Khuda Bux Achrani (applicant) acted as his partner in the transaction. Out of the sale consideration, Rs.13,50,000/- was paid in cash, while two cheques were issued for the balance: Cheque No.40265462 dated 27.11.2024 for Rs.20,000/- by Khuda Dino, and Cheque No.11649641 dated 27.11.2024 for Rs.9,00,000/- by Khuda Bux, drawn on Bank Al-Habib, Gulshan-e-Hadeed Phase-II Branch. Upon presentation, both cheques were dishonored. Despite repeated demands, the accused failed to pay the balance amount, whereafter the complainant lodged the FIR.

3. Learned counsel for the applicant contended that the matter essentially arises out of a civil dispute regarding sale consideration of property; that the dispute was amicably settled through a jirga and possession/transfer of the plot was already effected in favour of the vendee; that despite such settlement, the complainant misused the cheques and lodged the FIR with an unexplained delay of about seven months; that the essential ingredients including dishonest intention and mens rea at the time of issuance of cheque, are completely missing; that the offence does not fall within the prohibitory clause, and that the applicant has joined investigation and has not misused the concession of interim protection; therefore, he prays that the pre-arrest bail be confirmed.

4. Conversely, learned Deputy Prosecutor General opposed the grant of bail on the ground that the cheque issued by the applicant was dishonoured and that sufficient prima facie material is available to connect the applicant with the commission of the offence.

5. Heard. Record perused.

6. Perusal of the record reflects that the dispute between the parties arises out of a sale transaction of a house, in respect whereof the applicant issued a cheque in the sum of Rs.900,000/-, which was later dishonoured. Mere dishonour of a cheque, by itself, does not constitute an offence under Section 489-F, P.P.C. At this stage, the Court is not required to make a detailed examination of the evidence; rather, only a tentative assessment of the material available on record is to be undertaken. Prima facie, the material collected by the prosecution does not clearly show the existence of a settled, admitted, or finally determined liability at the time the cheque was allegedly issued, which is a necessary requirement for attracting criminal liability under Section 489-F, P.P.C. In the absence of such liability, the question whether the cheque was issued towards discharge of a legally enforceable obligation, in the correct amount, with consent, and with dishonest intention at the time of its issuance, is a matter which cannot be conclusively determined without recording evidence. Reliance is placed on the case of **Ali Anwar Paracha v. The State and another (2024 SCMR 1596)** wherein honourable Supreme Court held as under:

“In this view of the matter, the question whether the cheque was issued towards fulfilment 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.Ce prohibit that grant of bail in the offences not falling within the prohibitory clause is a rule and refusal is an exception.”

7. Besides, the plea of prior settlement through jirga and transfer of property in favour of complainant as well as delay of about seven months in lodging of FIR are factors which prima facie also makes prosecution case against the present applicant one of further inquiry within the meaning of Section 497(2) Cr.P.C. It is also an admitted position that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C. It is well settled that pre-arrest bail is an extraordinary relief, intended to protect innocent persons from abuse of the process of law, undue harassment, humiliation, or mala fide arrest. At this stage, no exceptional circumstances have been pointed out by the prosecution which may justify denial of the extraordinary relief of pre-arrest bail.

8. In view of the above circumstances, the applicant has made out a case for grant of pre-arrest bail. Consequently the instant bail application was allowed and the interim pre arrest bail granted to the applicant **Khuda Bux** vide order dated 12.9.2026 was confirmed on the same terms and conditions by this Court. These are reasons of short order dated 10.3.2026.

9. The observations made herein are tentative in nature and shall not influence the trial Court in any manner.

JUDGE