

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 3527 of 2025.

Applicant : Mansha through Mr. Syed Shaheer, Advocate.
Complainant : Bilal Ahmed through Mr. Zahid Iqbal, Advocate
Respondent : The State through Mr. Muhammad Noonari,
D.P.G.
Date of hearing : 09.3.2026.
Date of order : 09.3.2026.

ORDER.

TASNEEM SULTANA-J.:-Through this Criminal Bail Application, applicant Mansha seeks post-arrest bail in case FIR No. 277/2022, registered under Section 489-F PPC at Police Station Quaidabad, Karachi. Having been rejected his earlier post arrest bail application No.5824 of 2025 by learned Additional Sessions Judge-VIII, Malir Karachi vide order dated 05.12.2025, hence this application for same concession.

2. Brief facts of the prosecution case are that the applicant entered into a property transaction with the complainant and, after paying part consideration, issued two cheques amounting to Rs.24,00,000/- and Rs.5,00,000/-. Upon presentation, the said cheques were dishonoured with remarks “account inactive/closed,” leading to registration of the present FIR under Section 489-F PPC.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case; that the dispute between the parties arises out of a sale transaction relating to immovable property and is essentially of a civil nature; that the applicant had earlier been granted bail by the learned trial Court vide order dated 25.06.2022; that although his bail was subsequently recalled on account of non-appearance, the record reflects that on a number of dates his absence was condoned by the learned trial Court and the proceedings were also adjourned for reasons not attributable to him alone; that after recall of bail, the applicant appeared before the learned trial Court and was taken into custody; that there is unexplained delay of more than eight months in lodging the F.I.R.; that mere dishonour of a cheque does not by itself constitute an offence under Section 489-F, P.P.C. unless it is established that the cheque was issued with dishonest intention towards discharge of a legally enforceable liability; that in the present case the question whether the cheques in issue were issued towards discharge of a legally enforceable liability or by way of security is a matter to be determined by the learned trial Court after recording of evidence; that the offence

under Section 489-F, P.P.C. does not fall within the prohibitory clause of Section 497, Cr.P.C.; and that, in the circumstances, the case of the applicant falls within the ambit of further inquiry and he is entitled to the concession of post-arrest bail.

4. Conversely learned D.P.G opposed the bail application on the ground that the applicant issued cheques which were dishonoured and he is specifically nominated in the FIR, thus sufficient material is available on record to connect him with the commission of crime.

5. Heard. Record perused.

6. The allegation against the applicant is that the complainant sold his house to him for a sale consideration of Rs.34,00,000/-, out of which the applicant allegedly paid Rs.5,00,000/- in cash and issued cheque No.1580150061 for Rs.24,00,000/- and cheque No.1580150062 for Rs.5,00,000/-. It is further alleged that upon presentation on 11.08.2021, both the cheques were dishonoured with the remark that the account was closed. The record reflects that the alleged dishonour had taken place on 11.08.2021, whereas the F.I.R. was registered on 23.05.2022, after a delay of about eight months, for which no plausible explanation is available on record. The controversy between the parties arises out of a transaction relating to sale of immovable property, therefore, the question whether the cheques in issue were issued towards discharge of a legally enforceable liability within the meaning of Section 489-F, P.P.C., or by way of security, is a matter to be determined by the learned trial Court after recording of evidence.

7. It is true that the applicant was earlier admitted to bail by the learned trial Court vide order dated 25.06.2022 and such concession was subsequently recalled, whereafter his second post-arrest bail application was dismissed vide order dated 19.11.2025 and the post-arrest bail application before the learned Additional Sessions Judge -VIII, Malir, Karachi also met the same fate vide order dated 05.12.2025. The diary sheets placed on record reflect that although on certain dates the applicant remained absent and coercive process was issued against him, on a number of occasions his absence was condoned by the learned trial Court. The same material further reflects that the proceedings were also adjourned on several dates for reasons not attributable to the applicant alone, including non-service or non-issuance of process, absence of witnesses, court leave, court lying vacant, bar strike, and at times absence from the complainant's side as well. The record further shows that after recall of bail, the applicant appeared before the learned trial Court on 09.10.2025 and was taken into custody. Thus, while the applicant did not remain regular in attendance before the learned trial Court, the material available on record does not justify an unqualified conclusion that he had so misused the concession of bail as to disentitle him altogether from the present relief.

8. The offence under Section 489-F, P.P.C. carries maximum punishment of three years and does not fall within the prohibitory clause of Section 497, Cr.P.C. In the circumstances of the case, particularly the delay in registration of the F.I.R., the nature of the underlying transaction, and the question whether the cheques were issued towards a legally enforceable liability, the matter, at this stage, calls for further inquiry within the contemplation of Section 497(2), Cr.P.C.

Reliance is placed upon ***Ali Anwar Paracha v. The State and another (2024 SCMR 1596)***, wherein the Honourable Supreme Court of Pakistan held that:

“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.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”.

Further reliance is placed upon ***Muhammad Anwar v. The State and another (2024 SCMR 1567)***, wherein the Honourable Supreme Court of Pakistan was pleased to observe 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. In view of the facts and circumstances discussed above, learned counsel for the applicant has succeeded in making out a case for grant of bail within the contemplation of Section 497(2), Cr.P.C. Consequently, the instant bail application was allowed and the applicant, Mansha son of Hussain, was admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. These are the reasons for my short order dated 09.03.2026.

10. The observations made herein above are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE