

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.820 of 2026

Applicant: Danish Ali through Mr. Zulfiqar Ali Abbasi,
Advocate

Complainant: Through Mr. Hamza Yousuf, Advocate.

Respondent: The State through Mr. Qamaruddin Nohri,
Deputy Prosecutor General Sindh.

Date of hearing: 27.04.2026

Date of order: 27.04.2026

ORDER

TASNEEM SULTANA, J :- Through this Criminal Bail Application, the applicant Danish seeks post-arrest bail arising out of FIR No. 861/2025 registered under Section 489-F PPC at Police Station Ferozabad, Karachi. Earlier, his bail application No. 10 of 2026 was declined by the learned XXI Judicial Magistrate, Karachi East vide order dated 20.01.2026, and subsequently, his bail application No. 1056 of 2025 was also dismissed by the learned IXth Additional District & Sessions Judge, Karachi East vide order dated 04.03.2026, hence this application for the same concession.

2. Brief facts of the prosecution case are that the complainant alleged that he intended to purchase construction material for building his house and, in that connection, approached a company where the present applicant was working as Salesman/Manager; that an amount of Rs.1,07,72,000/- was paid as advance booking through cheque bearing No.HMB-60233366; however, the material was not supplied within the stipulated time; that upon demand for return of the amount, cheque bearing No.11095163 dated 20.02.2025 amounting to Rs.1,03,00,000/- was issued by the applicant, which on presentation was dishonoured due to insufficient funds; that thereafter further cheques were issued which were also dishonoured on presentation; hence, it is alleged that the applicant dishonestly issued the said cheques and thereby committed an offence under Section 489-F PPC.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case; that the entire transaction was between the complainant and the company, whereas the applicant was

merely working as an employee and had no proprietary interest in the said business; that the complainant made payment as advance booking to the company and not to the applicant in his personal capacity; that no direct contractual nexus exists between the complainant and the applicant; that although one cheque was issued by the applicant from his personal account, the subsequent issuance of cheques by the company towards the alleged outstanding amount prima facie indicates that the liability, if any, is attributable to the company rather than the applicant in his personal capacity; that there was no dishonest intention at the time of issuance of cheque; that the FIR has been lodged with considerable and unexplained delay; that the matter arises out of business dealings and is of civil nature; that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; and that the case of the applicant squarely falls within the ambit of further inquiry under Section 497(2) Cr.P.C.; therefore, the applicant is entitled to the concession of bail.

4. Learned Deputy Prosecutor General, assisted by learned counsel for the complainant, opposes the application and contends that the applicant issued a cheque which was dishonoured on presentation; that such conduct prima facie reflects dishonest intention; that the complainant has suffered substantial financial loss; that the co-accused, being owner of the company, also issued cheques which were dishonoured, thereby showing a continuous course of conduct; that the CRO indicates involvement of the applicant in cases of similar nature; that the co-accused is absconding; that the applicant and co-accused are inter se related through intermarriages, suggesting a coordinated course of conduct; that there is likelihood that the applicant may also evade the process of law if admitted to bail; and that in view of the nature of allegations and surrounding circumstances, the applicant is not entitled to the concession of bail.

5. Heard. Record perused.

6. It appears that the dispute between the parties arises out of a business transaction, whereby the complainant allegedly made advance payment to a company for supply of construction material, whereas the applicant is stated to be merely an employee of the said company and has no proprietary interest therein. It further appears from the record that the complainant's own case reflects that the payment was made to the company as advance booking for procurement of material and not to the applicant in his personal capacity, which prima facie raises a question regarding the nature of liability.

7. It further appears that although one cheque amounting to Rs.10,300,000/- was issued by the applicant from his personal account, however, subsequently the co-accused, being owner of the company, issued four cheques towards the alleged outstanding amount, which prima facie indicates that the liability, if any, is attributable to the company rather than to the applicant personally. In such circumstances, the question for determination at this stage is whether any independent or personal liability can be fastened upon the applicant or whether the same pertains to the company, which question requires deeper appreciation of evidence and can only be resolved after recording of evidence at trial.

8. It further appears that the essential ingredient of dishonest intention at the time of issuance of cheque has yet to be established through evidence, and mere dishonour of cheque, by itself, is not sufficient to fasten criminal liability under Section 489-F PPC at this stage.

9. It also appears that the FIR has been lodged with considerable and unexplained delay, which prima facie creates doubt and calls for further inquiry. The liability itself appears to be disputed and requires determination through evidence at trial.

10. So far as the contention regarding CRO is concerned, the same reflects registration of cases and not conviction; therefore, it cannot be treated as conclusive proof of criminal propensity at this stage. Likewise, the allegation regarding abscondence of co-accused and apprehension of absconsion of the applicant is not supported by any material showing that the applicant has previously misused concession of bail or attempted to evade the process of law.

11. Moreover, the offence under Section 489-F PPC carries punishment up to three years; hence, the same does not fall within the prohibitory clause of Section 497 Cr.P.C., thereby making it a case wherein grant of bail is a rule and refusal is an exception. Reliance is placed on the case of ***Muhammad Anwar v. The State and another (2024 SCMR 1567)***, wherein the Honourable Supreme Court of Pakistan was pleased to observe as under:

“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 offences not falling within the prohibitory clause is a rule and refusal is an exception.”

12. In view of the above circumstances, the applicant has succeeded in making out a case of further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, the instant bail application is allowed and the applicant is admitted to bail subject to furnishing solvent surety in the sum of Rs. 100,000/- and PR bond in the like amount to the satisfaction of the trial Court.

13. Needless to observe that the observations made hereinabove are tentative in nature and shall not prejudice the case of either side at trial.

JUDGE

Nadeem