

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3082 of 2025

Applicant : Shan Khan son of Muhammad Mohsin Khan through M/s. Munir Ahmed Malik, Harchand Rai and Ghulam Murtaza, Advocates

Respondent : The State through Mr. Sharaf-u-Din Kanhar, Assistant Prosecutor General, Sindh along with Ms. Najma Latif Golo, APG and Ms. Rukhsana Mirjat, ADPP

Complainant, namely, Syed Adeel Shah present in person

Date of hearing : 30.04.2026

Date of decision : 30.04.2026

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant-Shan Khan son of Muhammad Mohsin Khan, seeks pre-arrest bail in FIR No.333 of 2025, under Section 489-F PPC, registered at Police Station Gizri, Karachi, calling in question the Order dated 13.10.2025, passed by the learned Additional Sessions Judge-X, Karachi South, whereby, his pre-arrest bail application was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court vide Order dated: 07.11.2025.

2. The brief facts of the prosecution case as set out in the FIR are that on 26.06.2025 at 18300 hours, Complainant, namely, Syed Adeel Shah, appeared at Police Station Gizri, Karachi and lodged an FIR, alleging therein that there is a business, regarding sale and purchase of the Mobile Phones, for which, Applicant issued two cheques bearing Cheque No.85503880, amounting to Rs.31,55,000/- dated 17.12.2024 of Bank Islamic Limited Branch Phase-IV DHA, Karachi and Cheque bearing No.175871500, amounting to Rs.1,00,00,000/- dated 24.04.2024 of Habib Metro Branch Dastagir FB Area, Karachi, in favor of Complainant, which was dishonored on presentation before the Bank concerned due to insufficient funds. Such F.I.R No.333 of 2025 was registered under Section 489-F PPC at Police Station Gizri, Karachi South.

3. Learned Counsel for the Applicant argued that the Applicant is innocent and has falsely been implicated in this case by the Complainant in connivance with the police. He further argued that the Applicant has committed no offence and there is a dispute of civil nature. He further argued that FIR was lodged with an inordinate delay of more than 63 days without any plausible explanation and that the essential ingredients of Section 489-F PPC, including dishonest intention and mens rea at the time of issuance of cheques are completely missing. He further argued that there is no direct or indirect evidence connecting the Applicant with the commission of offence. He further argued that Section 489-F PPC is not hit by the prohibitory clause of Section 497 Cr.PC, and that the Applicant has joined the investigation and has not misused the concession of interim protection; therefore, he prays that the pre-arrest bail may be confirmed. In support of his contentions, learned Counsel has placed reliance upon the case laws reported as 2023 SCMR 748, 2023 P.Cr.L. J Note 52 Sindh, 2025 MLD 2005 Sindh, 2010 YLR 3108 Lahore HC, 2022 YLR Note 144 Sindh, 2021 MLD 589 Sindh, 2022 MLD 1444 Lahore HC, 2025 MLD 373 Peshawar HC, 2025 YLR 617 Sindh, 2025 P.Cr. L. J 1102 Balochistan HC, 2025 MLD 781 Sindh, 2024 SCMR 1567 and 2022 YLR Note 207.

4. Learned Assistant Prosecutor General, Sindh argues that the offence is duly reflected from the contents of the FIR and supporting material, that the cheques were dishonoured, and that the sufficient prima facie material is available to connect the Applicant with the commission of the offence. He contends that the pre-arrest bail is an extraordinary relief which cannot be granted as a matter of course, particularly where the accused has allegedly misused earlier concessions, and therefore he prays that the present pre-arrest bail application be dismissed.

5. I have given thoughtful consideration to the arguments advanced by the learned counsel for the Applicant as well as Assistant Prosecutor General, Sindh and have carefully examined the record with a tentative assessment, as is permissible at the bail stage. 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, the Court is not required to undertake a deeper appreciation of evidence; rather, it is to make a tentative assessment of the material available on record. For attracting the provisions of Section 489-F, P.P.C., the prosecution is required, at least prima facie, to establish the following essential ingredients: (i) issuance of a cheque by the accused; (ii) issuance of such cheque dishonestly; (iii) existence of a legally enforceable debt, liability, or obligation; (iv)

knowledge or mens rea at the time of issuance that the cheque would be dishonoured; and (v) dishonour of the cheque upon its presentation. It is by now settled law that mere dishonour of a cheque, by itself, does not constitute an offence under Section 489-F, P.P.C., unless all the aforesaid ingredients coexist. A careful perusal of the FIR, challan, and annexed material reveals that admittedly there is a business of sale and purchase of Mobile Phones. The prosecution record is silent as to when, where, and in what manner the alleged cheques were issued by the present Applicant in discharge of any liability. The mode of transaction, consideration, and foundation of liability has not been disclosed, which are fundamental prerequisites for invoking Section 489-F PPC. Equally significant is the fact that the FIR does not allege any dishonest intention (mens rea) on the part of the present Applicant at the time of issuance of the cheques. There is no assertion that the Applicant knowingly issued the cheques with the intention that it would be dishonoured. In the absence of such allegation, the essential element of dishonesty, being the soul of Section 489-F PPC, remains unestablished at this stage.

6. In view of the absence of: privity of contract and allegation of dishonest intention made out the case of further inquiry, the core ingredients of Section 489-F PPC cannot be conclusively determined without recording of evidence. These aspects require deeper probe and proper appreciation at trial. Consequently, the case, so far as the present Applicant is concerned, squarely falls within the ambit of "further inquiry" as envisaged under Section 497(2) Cr.P.C.

7. It is further observed that: The FIR has been lodged after a considerable unexplained delay; The alleged transaction appears to be predominantly business of sale and purchase of Mobile Phones; The offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; and bail is not to be withheld as a measure of punishment.

8. In similar circumstances, where bail was granted in an offence under Section 489-F, P.P.C. i.e., ***Ali Anwar Paracha v. The State and another (2024 SCMR 1596)***, 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". In another similar offence under Section 489-F, P.P.C., in the case of **Muhammad Anwar v. The State and another (2024 SCMR 1567)**, the Honourable Supreme Court of Pakistan was pleased to grant bail by observing 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. Keeping in view the settled principles of law governing pre-arrest bail, this Court is of the tentative view that the Applicant has made out a case for confirmation of pre-arrest bail. Consequently, the ad-interim pre-arrest bail granted to the Applicant *vide* Order dated 07.11.2025 in Crime No.333 of 2025, registered at Police Station Gizri, Karachi South, for offence under Section 489-F PPC, is hereby confirmed, subject to the same terms and conditions. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

JUDGE

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