

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2188 of 2026

Applicant : Waheed Ashraf son of Muhammad Ashraf through Syed Makhdoom Javed Husnain, Advocate

Complainant : Nadeem Ahmed son of Muhammad Yousuf through M/s. Muhammad Arif Sheikh and Faisal Aziz, Advocates

Respondent : The State through Ms. Najma Latif Golo, Assistant Prosecutor General, Sindh

Date of hearing : 02.09.2026

Date of decision : 02.09.2026

ORDER

Jan Ali Junejo, J.- Through this Order, I intend to decide the instant post-arrest bail application filed under Section 497, Cr.P.C. by Applicant-Waheed Ashraf son of Muhammad Ashraf, who seeks his release in case FIR No.270 of 2026, registered under Section 489-F, P.P.C. at Police Station KIA, Karachi. The earlier bail application of the Applicant was dismissed by the learned Vth Additional Sessions Judge/ MCTC, Karachi East *vide* Order dated 12.05.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that on 03.03.2026 at about 1700 hours, Complainant, namely, Nadeem Ahmed son of Muhammad Yousuf, lodged the FIR at Police Station KIA, Karachi, alleging therein that he is engaged in private construction work and had paid a sum of Rs.7,500,000/- to the Applicant for arranging a construction contract in respect of the MCB Bank Guest House. It is further alleged that when the said contract could not be arranged, the Applicant issued three cheques of Rs.2,500,000/- each, in favour of the Complainant, which, upon presentation before the concerned bank, were dishonoured, due to insufficient funds; hence, the present FIR.

3. Learned Counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated with mala fide intention. He further argued that there is inordinate and unexplained delay of three months in lodging the FIR, which creates serious doubt in the prosecution case. It was further contended that the matter arises out of a business

transaction of civil nature, and the essential ingredients of Section 489-F, P.P.C. are not attracted. Learned Counsel submitted that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., thus bail is a rule and refusal an exception. He further argued that the Applicant has been in custody for a considerable period, trial is not likely to conclude in near future, and the case calls for further inquiry. He, therefore, prayed for grant of bail.

4. Conversely, learned Counsel for Complainant vehemently opposed the grant of bail and contended that the Applicant dishonestly induced the Complainant and issued cheques, which were dishonoured due to insufficient funds, clearly establishing the offence under Section 489-F, P.P.C. He argued that the transactions are on record and the conduct of the Applicant reflects dishonest intention from the very inception. He further contended that the delay in registration of FIR has been properly explained. He, therefore, prayed for dismissal of the bail application.

5. Learned Assistant Prosecutor General, Sindh also opposed the bail application and adopted the arguments advanced by learned Counsel for the Complainant. She submitted that the Applicant is directly connected with the commission of offence, being signatory of the dishonoured cheques, and sufficient material is available on record showing his involvement. She further argued that the offence though not falling within prohibitory clause, yet the discretion of grant of bail is to be exercised judiciously, and in the present case no ground for concession of bail is made out. She thus prayed for dismissal of the application.

6. I have heard learned Counsel for the Parties at considerable length and have perused the available record with their assistance. At the outset, it is noted that the allegation against the Applicant primarily revolves around a monetary transaction arising out of an investment between the parties. The record reflects that the relationship between the Complainant and the Applicant was based upon a business arrangement, and the dispute essentially pertains to repayment of amount along with profit. It is also an admitted position that the case of the prosecution rests mainly upon documentary evidence i.e., cheques in question, which is already in custody of the prosecution and its veracity is subject to proof during trial. Therefore, no apprehension of tampering with evidence is made out.

7. Moreover, the delay of three months in registration of FIR, prima facie, has not been satisfactorily explained and creates a dent in the prosecution story at this stage. Such delay, coupled with the nature of

transaction between the parties, renders the case one of further inquiry within the meaning of Section 497(2), Cr.P.C.

8. Furthermore, the offence under Section 489-F, P.P.C. admittedly does not fall within the prohibitory clause of Section 497, Cr.P.C. and it is now well-settled that in such cases, grant of bail is a rule and refusal is an exception, unless exceptional circumstances are shown, which are lacking in the present case. In case 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. The question as to whether the cheques were issued dishonestly towards a legally enforceable obligation or was misused is a matter which requires deeper appreciation of evidence and can only be determined at trial. At this tentative stage, no conclusive opinion can be formed. Additionally, the Applicant is in custody and further detention of the Applicant shall not serve useful purpose. No material has been placed on record to show that the Applicant is a hardened criminal or that he is likely to abscond or tamper with prosecution evidence. In view of the above circumstances, without delving deeper in the prosecution evidence, I am of the tentative view that the case of the Applicant calls for further inquiry.

10. For the foregoing reasons, the instant bail application is **allowed** and Applicant-Waheed Ashraf son of Muhammad Ashraf is admitted to post-arrest bail in case based on FIR No.270 of 2026, under Section 489-F PPC, registered at Police Station KIA, Karachi, subject to his furnishing a solvent surety in the sum of **Rs.500,000/- [Rupees Five Hundred Thousand Only]** and P.R. bond in the like amount to the satisfaction of the learned trial Court. It is, however, clarified that all observations hereinabove are purely tentative and confined to the adjudication of the present bail application. Nothing stated in this Order shall be construed as an opinion on the merits of the case, and the trial Court shall proceed independently, uninfluenced by any observations contained herein.

JUDGE

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