

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-303 of 2026
[Arsalan Memon vs. The State]

Applicant by: Mr. Wajid Ali Khaskheli advocate
Complainant by: Mr. Raheel Jatoi advocate
State by: Mr. Khalid Hussain Lakho D.P.G
Date of hearing 18.06.2026
Date of Order 18.06.2026

ORDER

TASNEEM SULTANA, J: Through the instant Criminal Bail Application, applicant Arsalan Memon seeks pre-arrest bail in Crime No.20 of 2026, registered at Police Station Kotri, for offence punishable under Section 489-F, PPC. Earlier, his application for the same relief was dismissed by the learned Additional Sessions Judge-II, Jamshoro vide order dated 26.02.2026.

2. Brief facts of the prosecution case are that complainant Muzzamil Talat was doing business of sale and purchase of vehicles with the applicant. During such business dealings, the applicant allegedly issued cheque No.1838885408, dated 15.11.2024, drawn on MCB Bank, Hyderabad Branch, for an amount of Rs.80,00,000/- in favour of the complainant. The complainant presented the said cheque in his account maintained with HBL Bank, Kotri Branch, but the same was dishonoured. It is alleged that thereafter the complainant contacted the applicant, who gave false assurances for payment but failed to clear the amount; hence the FIR.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that the dispute between the parties arises out of business dealings regarding sale and purchase of vehicles; that the cheque was not issued dishonestly, rather it was connected with continuing business transactions between the parties; that the alleged amount had already been adjusted through delivery of vehicles; that the complainant, after retaining the cheque, misused the same by presenting it for encashment; that there is delay in lodging the FIR, which reflects mala fide on the part of the complainant; that the offence falls within the non-prohibitory clause of Section 497, Cr.P.C.; and that the case calls for further inquiry. He lastly prayed for confirmation of interim pre-arrest bail.

4. Conversely, learned D.P.G. Sindh, assisted by learned counsel for the complainant, opposes confirmation of interim pre-arrest bail. They submit that issuance of cheque and signature of the applicant thereon are not disputed; that the cheque was dishonoured on account of closed/inactive account, which prima

facie reflects dishonest intention; that the plea of settlement through vehicles is misconceived and unsupported by record; that the applicant has pleaded delivery of Toyota Corolla and Toyota Vitz under receipt relied upon by him does not show the applicant as owner or seller, nor does it show the complainant as purchaser or recipient, rather it contains names of third persons; and that the applicant has failed to establish mala fide, ulterior motive or abuse of process, which is necessary for grant of extraordinary relief of pre-arrest bail. They prayed for dismissal of the application and recall of interim bail.

5. Heard learned counsel for the applicant , learned D.P.G. for state as well as learned counsel for complainant and perused the material available on record.

6. The allegation against the applicant is that he issued cheque No.1838885408 for Rs.80,00,000/- in favour of the complainant, which, upon presentation, was dishonoured. At this tentative stage, issuance of the cheque and signature of the applicant thereon do not appear to be seriously disputed. The bank return memo also reflects that the cheque was dishonoured on account of closed/inactive account. Thus, there is prima facie material connecting the applicant with the alleged offence under Section 489-F, PPC.

7. The applicant has taken the plea that the dispute arose out of business dealings and that the amount stood adjusted through delivery of two vehicles. However, the material relied upon by him does not prima facie support such plea. The receipt produced by the applicant does not correspond with one of the vehicles pleaded by him and, even otherwise, neither shows the applicant as owner or seller nor the complainant as purchaser or recipient. The Excise and Taxation record also shows the vehicles to be registered in the names of persons other than the applicant. In absence of any acknowledgment by the complainant regarding acceptance of the alleged vehicles in satisfaction of the cheque amount, the plea of settlement through vehicles remains unsupported and does not establish mala fide on the part of the complainant or police, nor does it furnish any ground for confirmation of pre-arrest bail.

8. The contention that the matter is civil in nature is also of no avail to the applicant at this stage. Mere existence of business dealings between the parties does not, by itself, exclude criminal liability under Section 489-F, PPC, particularly when issuance and dishonour of cheque are prima facie shown. The applicant has not brought any material of unimpeachable character to show that the criminal process has been misused or that his intended arrest is actuated by mala fide or ulterior motive.

9. No doubt, the offence under Section 489-F, PPC does not fall within the prohibitory clause of Section 497, Cr.P.C.; however, grant of bail in such cases is not automatic, particularly when the accused seeks extraordinary relief of pre-

arrest bail. In such matters, the accused is required not only to bring his case within the parameters of Section 497(2), Cr.P.C., but also to establish mala fide, ulterior motive or abuse of process on the part of complainant or police. Guidance may be taken from *Rana Abdul Khaliq v. The State* (2019 SCMR 1129), wherein the Hon'ble Supreme Court has held that grant of pre-arrest bail essentially requires consideration of mala fide, ulterior motive or abuse of process of law. Reference may also be made to *Azhar Pervaiz Bukhari v. The State* (2024 SCMR 1719), wherein pre-arrest bail in a case under Section 489-F, PPC was refused as sufficient incriminating material was available on record connecting the accused with the alleged offence.

10. In view of the above facts and circumstances, the applicant has failed to make out a case for grant of extraordinary relief of pre-arrest bail. Consequently, this Criminal Bail Application is dismissed. The interim pre-arrest bail earlier granted to the applicant vide order dated 09.03.2026 is hereby recalled and surety stands discharged.

11. Needless to observe that the above observations are tentative in nature and shall not affect the merits of the case at trial.

JUDGE