

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.S- 438 of 2026

Applicant : Ayaz Ali Rind through Mr. Samiullah Khan Rind, Advocate a/w applicant.

Complainant : Ghulam Raza Soomro (Nemo).

Respondent : The State through Mr. Muhammad Raza Katohar, Deputy P.G.

Date of Hearing : 21-09-2026

Date of Order : 02-10-2026

ORDER

TASNEEM SULTANA, J.- Through this Criminal Bail Application, applicant Ayaz Ali son of Muhammad Murad Rind seeks pre-arrest bail in Crime No.309 of 2025, registered at Police Station Shaheed Murtaza Mirani, Khairpur, for an offence punishable under Section 489-F, P.P.C. His earlier pre-arrest bail application was dismissed by the learned Additional Sessions Judge-III, Khairpur, vide order dated 08.12.2025; hence, the instant application for the same concession.

2. Brief facts of the prosecution case, as per FIR, are that complainant Ghulam Raza alleged that he was running a motorcycle showroom under the name and style of Sindh Autos at Saida Goth, Khairpur, and was acquainted with the applicant. It was alleged that on 28.08.2023, the applicant purchased two CD-70 motorcycles for a total consideration of Rs.460,000/-, paid Rs.100,000/- in cash and, for the remaining amount of Rs.360,000/-, issued cheque No.279408783 dated 28.06.2024, drawn on National Bank of Pakistan, City Branch, Khairpur. On presentation, the cheque was dishonoured on 05.07.2024 due to insufficient funds. The complainant alleged that despite repeated demands, the applicant failed to make payment and ultimately refused; hence, the FIR was lodged on 30.09.2025.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that there is considerable delay in registration of the FIR; that the dispute arises out of a transaction relating to sale and purchase of motorcycles; that although the alleged transaction is

shown to have taken place on 28.08.2023, the motorcycles are described as Model-2024, while the documents relating to them bear dates of June 2024; that the cheque in question had been misplaced and was subsequently misused by the complainant; that the ingredients of Section 489-F, P.P.C. are not attracted; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; that after grant of interim pre-arrest bail by this Court, the applicant has appeared before the trial Court and participated in the proceedings; and lastly prayed for confirmation of interim pre-arrest bail.

4. Conversely, Deputy P.G for the State, opposed the application; contending that the applicant is specifically nominated in the FIR for issuing the cheque; that the cheque was issued from the applicant's account and was dishonoured due to insufficient funds; that the transaction is supported by the documents available on record; that prior to grant of interim bail, the applicant remained absent before the trial Court and non-bailable warrants were issued against him; that no mala fide has been shown on the part of the complainant; and lastly prayed for dismissal of the bail application.

5. Heard. Record perused.

6. The record reflects that the alleged transaction is stated to have taken place on 28.08.2023, whereas the motorcycles referred to therein are described as Model-2024 and the documents relating to those motorcycles bear dates of June 2024. This apparent discrepancy requires determination at trial. It further appears that the cheque for Rs.360,000/- was dated 28.06.2024 and was dishonoured on 05.07.2024, whereas the FIR was lodged on 30.09.2025. Whether the cheque was dishonestly issued by the applicant in discharge of an existing obligation, as alleged by the complainant, is a matter to be determined on the basis of evidence. The delay in registration of the FIR, the nature of the transaction and the above discrepancy, prima facie, make the case one of further inquiry within the meaning of Section 497(2), Cr.P.C. Reliance in this regard is placed upon the case of Salman Mushtaq & others v. The State through P. G Punjab and another (2024 SCMR 14), wherein the Honourable Supreme Court observed as under:-

“6...While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused...”

7. Furthermore, 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. The settled principle of law is that in offences not falling within the prohibitory clause, grant of bail is a rule and refusal is an exception. Reliance in this regard may beneficially be placed upon the case of Abdul Rasheed v. The State (2023 SCMR 1948), wherein the Honourable Supreme Court observed as under:-

“6...Even otherwise, even if the complainant wants to recover his money, Section 489-F of PPC is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. In view of the above, the question whether the cheques were issued towards repayment of the loan or fulfillment of an obligation within the meaning of Section 489-F PPC 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 PPC 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...”

8. So far as the objection regarding the applicant's earlier non-appearance is concerned, the record shows that prior to grant of interim pre-arrest bail, non-bailable warrants had been issued against him. However, after this Court granted him interim pre-arrest bail vide order dated 13.05.2026, the trial Court diary dated 01.06.2026 reflects his appearance before the Court. He was also present when charge was framed on 08.06.2026, and his subsequent participation in the proceedings is reflected from the record. No material has been pointed out to show that after grant of interim pre-arrest bail by this Court, the applicant has misused the concession.

9. In view of the above facts and circumstances, the applicant Ayaz Ali has made out a case for grant of pre-arrest bail. Consequently, the instant

bail application is allowed and the interim pre-arrest bail granted to the applicant vide order dated 13.05.2026 is hereby confirmed on the same terms and conditions.

10. The observations made herein are tentative in nature and shall not influence the trial, Court.

J U D G E

Ahmad