

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS

Crl. Bail Application No.S-398 of 2026

Applicant: Attaullah S/o Inayatullah Sajid.
Through Mr. Zulfiqar Ali Laghari, Advocate.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, D.P.G.

Complainant: Attaullah S/o Bashir Ahmed.
Through Mr. Muhammad Noordin Bhatti,
Advocate.

Date of hearing: 08.10.2026

Date of order: 08.10.2026

ORDER

RIAZAT ALI SAHAR, J:- Through the instant bail application under Section 498, Cr.P.C., the applicant/accused seeks confirmation of pre-arrest bail in Crime No.26 of 2026, registered at Police Station Satellite Town, Mirpurkhas, for offences punishable under Sections 489-F and 420, P.P.C. His earlier application for pre-arrest bail was dismissed by the learned Additional Sessions Judge-I, Mirpurkhas, vide order dated 18.02.2026.

2. The facts and particulars of the prosecution case are already set out in the FIR, a copy whereof is annexed with the bail application; therefore, unnecessary reproduction thereof is avoided in view of the principle laid down in PLD 2014 SC 458.

3. Learned counsel for the applicant/accused contends that the applicant is innocent and has been falsely implicated in the present case with mala fide intention and ulterior motives. According to him, no amount was outstanding against the applicant, whereas the cheque in question was allegedly taken away by the complainant and subsequently misused with the object of extracting further money. He submits that the applicant had already approached the Senior Superintendent of Police, Mirpurkhas, regarding the alleged misuse of the cheque, and an inquiry in that regard is still pending. He further contends that the FIR was lodged after an unexplained delay of twenty (20) days, which creates serious doubt regarding the truthfulness of the prosecution version. It is argued that the essential ingredients of Section 489-F, P.P.C., particularly dishonest intention at the time of issuance of the cheque and its issuance towards

repayment of a loan or fulfilment of an obligation, are matters requiring determination through evidence. He further submits that the offences alleged against the applicant do not fall within the prohibitory clause of Section 497(1), Cr.P.C., and that the mere involvement of a substantial amount cannot, by itself, constitute a valid ground for refusal of bail. Lastly, he submits that the applicant is neither a previous convict nor a hardened criminal, and there is no likelihood of his absconding or tampering with the prosecution evidence. He, therefore, prays for confirmation of interim pre-arrest bail.

4. Conversely, learned Deputy Prosecutor General, duly assisted by learned counsel for the complainant, vehemently opposes the application and submits that the applicant is specifically nominated in the FIR with a definite allegation of having dishonestly issued a cheque towards discharge of an existing financial obligation, which was subsequently dishonoured upon presentation before the concerned bank. They contend that the applicant has failed to produce any convincing material to substantiate his plea that the cheque was taken away or misused by the complainant. According to them, the defence advanced by the applicant is merely an attempt to avoid criminal liability and requires proof through evidence. They further submit that the delay in registration of the FIR, in the circumstances of the case, is neither fatal to the prosecution nor sufficient to discredit the allegations at this preliminary stage. It is further argued that the material collected during investigation prima facie connects the applicant with the alleged offences and that no credible material has been brought on record to establish mala fide, ulterior motives or abuse of the process of law. They maintain that the applicant has failed to make out a case for the extraordinary concession of pre-arrest bail and, therefore, pray for dismissal of the application.

5. I have heard learned counsel for the respective parties, as well as learned Deputy Prosecutor General, and have carefully examined the material available on record. It appears that the allegation against the applicant pertains to issuance of a cheque amounting to Rs.4,100,000/- (Rupees Forty-One Lacs), which, upon presentation before the concerned bank, was dishonoured and returned along with a dishonour memo. The issuance and subsequent dishonour of the cheque constitute material circumstances requiring consideration in the light of the allegations contained in the FIR. Although mere dishonour of a cheque does not automatically constitute an offence under Section 489-F, P.P.C., unless the requisite dishonest intention and the purpose for which the cheque was issued are established, the allegations and material presently available on

record, tentatively assessed, provide prima facie grounds for examining the applicant's involvement in the alleged transaction.

6. The defence advanced by the applicant that the cheque had been taken away and subsequently misused by the complainant is a matter requiring examination in accordance with law. However, at this stage, no sufficient supporting material has been brought to the notice of this Court which may prima facie establish that the criminal proceedings were instituted solely for harassment, humiliation or any collateral purpose. Likewise, the mere fact that the applicant approached the S.S.P., Mirpurkhas, and that an inquiry is stated to be pending does not, by itself, conclusively establish the alleged misuse of the cheque. The delay of twenty days in registration of the FIR, though a relevant circumstance, is not necessarily decisive in the absence of other material sufficient to demonstrate mala fide or abuse of the process of law.

7. It is well settled that the concession of pre-arrest bail under Section 498, Cr.P.C., is intended to protect an individual against unjustified arrest and misuse of the criminal process. The jurisdiction is discretionary and must be exercised judicially, having regard to the nature of the accusation, the material connecting the accused with the alleged offence, the surrounding circumstances and the possibility of arrest being employed for an improper purpose. At the same time, the mere assertion of innocence or false implication, without sufficient supporting circumstances, does not automatically entitle an accused to such relief. The fact that an offence falls outside the prohibitory clause of Section 497(1), Cr.P.C., is undoubtedly a relevant consideration; however, the question of pre-arrest bail must be examined in the light of the principles applicable to Section 498, Cr.P.C., and the particular facts of each case.

8. In the present matter, the applicant has failed to point out sufficient circumstances which may persuade this Court to exercise its discretionary jurisdiction in his favour. The allegation regarding issuance of the cheque, its subsequent dishonour and the material presently available on record, when considered collectively, do not justify confirmation of the interim protection already extended to the applicant. The plea of mala fide has also not been substantiated by any convincing material at this stage. Consequently, the instant **bail application is dismissed** and the interim pre-arrest bail granted to the applicant vide order dated 17.07.2026 is hereby recalled.

9. Since the applicant/accused is present before this Court, he is taken into custody. **The S.H.O., Police Station Town, Mirpurkhas, is directed**

to take charge of the applicant and hand him over to the police of the concerned Police Station, in accordance with law, for further proceedings as may be warranted. The concerned police authorities shall ensure that all legal and procedural safeguards available to the applicant are strictly observed.

10. It is, however, pertinent to observe that the scope, nature and considerations governing pre-arrest bail under Section 498, Cr.P.C., are distinct from those applicable to post-arrest bail under Section 497, Cr.P.C. The dismissal of the present application shall, therefore, not operate as a bar to the applicant seeking post-arrest bail before the competent Court, if so advised. Any such application, if filed, shall be considered and decided independently, strictly in accordance with law and on its own merits, without being influenced by the observations recorded in the present order. The competent Court shall particularly examine the applicability of the prohibitory clause, the nature of the alleged financial transaction, the material collected during investigation and the grounds of further inquiry, if any, while deciding such application.

11. Meanwhile, the learned trial Court is directed to proceed with the trial expeditiously, strictly in accordance with law, without granting unnecessary adjournments, and to make every possible endeavour to conclude the same, preferably within a period of four (04) months, under intimation to this Court. The prosecution shall ensure the attendance of its witnesses on the dates fixed by the trial Court. The S.S.P., Mirpurkhas, shall extend necessary assistance in procuring the attendance of prosecution witnesses so that the proceedings are not delayed for want of their appearance. A copy of this order shall be communicated to the learned trial Court and the S.S.P., Mirpurkhas, for information and compliance.

12. Needless to observe that all observations made hereinabove are purely tentative in nature, confined to the determination of the present pre-arrest bail application, and shall not prejudice the rights of either party or influence the learned trial Court while deciding the case on merits.

JUDGE