

**IN THE HIGH COURT OF SINDH AT KARACHI****Crl. Bail Application No. 2334 of 2023**

Applicant : Syed Shahid Raza Shamsi  
through Mr. Tahir Hussain Qureshi, Advocate  
along with applicant

Respondent : The State  
through Mr. Muhammad Iqbal Awan, Addl.P.G.  
along with complainant.

Date of hearing : 14<sup>th</sup> November, 2023

**ORDER**

Omar Sial, J: On 16.06.2022, Faisal Fazal Khan lodged F.I.R. No. 369 of 2022 under section 489-F P.P.C. at the Defence police station. An earlier bail application was dismissed on 10.10.2023 by the learned Sessions Judge, Karachi South.

2. The complainant alleged that in 2020, he had given RS. 2 million to Syed Shahid Raza Shamsi, the applicant, on the understanding that the complainant would get a monthly profit of Rs. 200,000. The applicant could not give the promised profit. In a convoluted series of events which happened since the applicant at some stage gave a cheque of Rs. 1,000,000, which bounced upon presentation.

3. Learned Additional Prosecutor General has confirmed that apart from the bounced cheque, there is no other document to show the agreement between the parties. Indeed, the sole reason that the learned trial court dismissed the bail application of the applicant was because there was a cheque, and it had bounced on presentation. A bounced cheque is only one of the ingredients required for an offence under section 489-F P.P.C. to occur. In addition, the cheque should have been issued dishonestly, and the purpose for which it was issued should have been to

satisfy a loan or fulfil an obligation. The purpose for which the cheque was issued if at all, must be determined at trial as indeed will establishing mens rea. Keeping the obvious bad blood between friends turned foes, malafide on the part of the complainant cannot be conclusively excluded.

4. The punishment for the offence under section 489-F P.P.C. falls within the non-prohibitory clause of section 497 Cr.P.C. as it carries a potential sentence of up to 3 years. Considering the principles enunciated in Tariq Bashir and 5 others vs The State (PLD 1995 SC 34), I do not find any exceptional or extraordinary grounds to deny the applicant bail.

5. The interim pre-arrest bail granted earlier is confirmed on the same terms and conditions.

JUDGE