

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-181 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For orders on M.A. 1297/2025
3. For hearing of main case

Mr. Ayaz Ali Mangi Advocate for Applicant/Accused.

Syed Shafique Ahmed Shah Advocate for Complainant.

Ms. Safa Hisbani, Assistant Prosecutor General

Date of Hearing: 14.04.2025.

Date of Decisions: 22.04.2025.

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MIRAN MUHAMMAD SHAH, J.- Through this Bail Application, Applicant has sought for post arrest bail in Crime No.175 /2024 registered u/s 489-F PPC at C.P. Nasim Nagar PS Qasimabad, after dismissal of his bail plea by the learned 7th Additional Sessions Judge Hyderabad vide Order dated 15.11.2024, hence he approached this Court.

2. Necessary facts as per FIR, lodged by complainant Aslam Hyder s/o Ghulam Hyder Memon, are that applicant/accused was working as driver in the complainant's agency and he was also making recovery in market. After passing sometime the recovery was short and on inquiry from applicant/accused, he admitted that he utilized the recovery amount, therefore on 29.8.2023 applicant/accused issued cheque No.19051020 for Rs.40,25,000/-of Allied Bank Limited Nasim Shopping Centre Branch Qasimabad and cheque No.12424426 for Rs.25,00,000/- of Bank Islami Branch Qasimabad for the amount he utilized. However, on 13.05.2023 complainant submitted the cheques in his account, the same were dishonored due to insufficient balance.

3. Learned counsel for applicant/accused argued that applicant/accused is innocent and alleged cheques does not pertains the signature of applicant/accused. He further argued that FIR is registered with inordinate delay of one year without

any plausible explanation which is fatal for the prosecution case. He further argued that complainant in collusion with one Akmal Hyder Memon who is complainant of crime No.168/2024 U/S 420 PPC of PS Nasim Nagar, malafidely booked the applicant/accused in this false crime. He has further argued that no independent witness is cited in the case in hand. Lastly, he has prayed that bail of applicant/accused may allowed.

4. On the other hand learned counsel for the complainant the cheques in question were issued by applicant/accused in favour of complainant and the same on presentation in concerned bank were dishonored, as such, ingredients of Section 489-F PPC stands attracted. He has further argued that the version of complainant is not only supported by documentary proof but also corroborated by PWs. He prayed for dismissal of bail application. He has relied upon case laws report in 2022 SCMR 2040, 2012 P.Cr.LJ 918, 2011 YLR 863 and 2011 P.Cr.LJ 265.

5. Learned APG also opposed the Bail Application.

6. After hearing the advocate for appellant as well as the advocate for complainant so also the learned APG for the State, the case is simply of issuance of bogus cheques. The accused admittedly was the employee of the complainant who committed a fraud with the complainant/his employer. About a year before the cheques were sent for encashment the accused had issued two cheques to the complainant which when presented into the accounts of the complainant they were bounced for not having sufficient funds as per the contents of the FIR. The complainant has alleged that the applicant is a habitual fraud and a number of FIRs have been lodged against him under section 489-F PPC. Copies of 2 such FIRs have been submitted by the counsel for the complainant. However the counsel for the accused states that the alleged cheque does not bear the signature of the applicant accused and same has been managed by the complainant. There is an actual delay of almost more than one year in lodging of FIR. He also states that all PWs are interested and relatives to the complaint. However there is plethora

of case law passed by the Appex Court of Pakistan wherein it has been held that the question of cheques dishonoured under section 489-F PPC are to be decided at the trial court after recording of evidence and for such offences bail is not to be withheld. Such cases at bail stage fall in the ambit of further inquiry. Questioning of the veracity of the cheques as in this case falls under the cases of further inquiry. For such reasoning I also place my reliance upon 2024 SCMR 1719, 2023 SCMR 748, and 2022 SCMR 592. In light of the case law submitted and the arguments held I am of the opinion that the case of applicant accused fall within the ambit of further inquiry and since the case has been challaned all the conflicting questions of the case are to be decided by the trial court and for the said purpose the bail cannot be withheld. In such circumstances I hereby grant bail to the present applicant accused in the sum of rupees 500,000 subject to submitting surety in the like amount to the satisfaction of the learned trial court.

JUDGE

Ali Haider