

**THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 344 of 2025

Applicant : Abdul Jabbar  
through M/s. Shaikh Rehan Farooq  
& Tarique Ali, advocates

Respondent : The State  
through Mr. Mumtaz Ali Shah,  
Assistant Prosecutor General

Complainant : Parkash Kumar  
through Mr. Mukesh Kumar Khatri,  
advocate.

Date of hearing : 7<sup>th</sup> March, 2025

Date of Order : 7<sup>th</sup> March, 2025

**ORDER**

**Jan Ali Junejo, J.--** The applicant/accused has filed the present criminal bail application seeking post-arrest bail in connection with FIR No. 418 of 2023, registered at P.S. Mehmoodabad, Karachi, under Section 489-F of the Pakistan Penal Code (PPC). Initially, the applicant/accused approached the learned IXth Judicial Magistrate, Karachi-South, through Bail Application No. 12 of 2024, which was dismissed by order dated 02-01-2025. Subsequently, the applicant filed another Criminal Bail Application No. 42 of 2025 before the learned Sessions Court, which was transferred to the VIIIth Additional Sessions Judge, Karachi-South, and was also dismissed by order dated 06.01.2025.

2. The facts relevant to the present criminal bail application are as follows:

*“The complainant, Parkash Kumar engaged in construction work at Makhdoom Bilawal Society, Karachi, alleged that he paid Rs. 85,00,000/- in May 2023*

*to Abdul Jabbar, owner of Madina Steel & Material, for purchasing construction materials. When he requested delivery, Abdul Jabbar delayed and later switched off his phone. Upon visiting the shop, the accused cited a market shortage and issued five cheques: (1) CQ #1122675 for Rs. 15,00,000/- dated 02.06.2023, (2) CQ #1122676 for Rs.15,00,000/- dated 29.06.2023, (3) CQ #11339504 for Rs.5,00,000/- dated 25.07.2023, (4) CQ #11324842 for Rs.25,00,000/- dated 25.09.2023, and (5) CQ #00000033 for Rs.25,00,000/- dated 28.08.2023, drawn from Bank Al-Habib and Habib Bank Limited. The complainant deposited them in his UBL account, but all bounced due to insufficient funds, with a memo issued on 16.10.2023 and returned on 24.10.2023. As a result, FIR No. 418/2023 was registered on 01.11.2023 at P.S. Mehmoodabad, Karachi, under Section 489-F PPC, with the investigation assigned to the SIO”.*

3. The learned counsel for the applicant argues that the Applicant, Abdul Jabbar, is innocent and has been falsely implicated due to the malafide intentions of the complainant. He further argues that the case is a fabricated story, and the accused is merely a victim of circumstances with no involvement in the alleged offense. He contends that the cheques in question, along with four others, were lost near Chamra Chorangi, Korangi Industrial Area, Karachi, and that the accused had already filed an application at P.S. K.I.A before the FIR was lodged. He also argues that the complainant had previous dealings with the accused in 2020 and later requested materials on credit in 2023, which the accused refused. He asserts that the unexplained five-month delay in lodging the FIR casts serious doubts on the prosecution’s case. He further argues that merely issuing or dishonoring a cheque under

Section 489-F PPC does not establish criminal liability unless it is proven that the cheque was issued for a loan or obligation. He maintains that the case is of a civil nature and should be pursued through civil remedies. He argues that the accused has been in custody since his arrest, the offense does not fall within the prohibitory clause of Section 497 Cr.P.C., and bail should be granted as a rule rather than an exception. He further contends that discrepancies in the complainant's claim regarding the cheque amounts and lack of supporting business transaction evidence necessitate further inquiry. Lastly, he argues that the cheque signatures and stamps do not match those of the accused. In light of these arguments, he prays for the grant of bail, emphasizing the presumption of innocence and citing legal precedents supporting bail in such cases.

4. The learned counsel for the complainant argues that the applicant/accused deliberately issued five cheques totalling Rs. 85,00,000/-, which were dishonored due to insufficient funds, establishing his fraudulent intent. He further argues that the accused's claim of losing the cheques is an afterthought and lacks any credible evidence. He contends that the accused never reported the alleged loss in a timely manner and is now using it as a defense to evade liability. He also argues that the complainant has provided clear details of the financial transaction, and the delay in lodging the FIR is justified as the offense was only discovered when the cheques bounced. He further contends that Section 489-F PPC is specifically enacted to address such fraudulent financial dealings, and the accused cannot escape liability by claiming it to be a civil dispute. He argues that the accused has a history of similar complaints against him, showing a repeated pattern of deceitful conduct. He further argues that granting bail would allow the accused to abscond or tamper with evidence, depriving the complainant of

justice. In light of these arguments, he prays for the dismissal of the bail application, asserting that the accused has committed a serious financial offense and should not be granted any relief.

5. The learned Additional Prosecutor General (APG) for the State argues that the applicant/accused is directly involved in the commission of the offense under Section 489-F PPC, as he issued multiple cheques amounting to Rs. 85,00,000/-, which were dishonored due to insufficient funds. He further argues that the dishonoring of cheques clearly establishes a fraudulent intent on the part of the accused, making the offense cognizable and non-bailable. He contends that the accused has attempted to evade liability by making baseless claims about the alleged loss of cheques, but no concrete evidence has been produced to support this assertion. He further argues that the accused failed to report the alleged loss of cheques in a timely manner, which raises doubts about his defense. He also argues that the complainant has provided sufficient details of the business transaction, and the delay in lodging the FIR does not absolve the accused, as the offense was only discovered upon the dishonoring of the cheques. He further contends that Section 489-F PPC is specifically designed to address cases of financial fraud, and the argument that the matter is purely of a civil nature is misconceived. He argues that the accused has a history of similar allegations, which indicates a pattern of fraudulent conduct, making him undeserving of any leniency. He further argues that the maximum punishment under Section 489-F PPC is three years, and although it does not fall within the prohibitory clause of Section 497 Cr.P.C., the grant of bail is not automatic when strong incriminating evidence exists against the accused. He contends that the complainant has been deprived of a significant amount of money, and granting bail may allow the accused to abscond or influence witnesses. He

also argues that the signatures on the cheques match those of the accused, and the defense's claim regarding discrepancies is an afterthought to escape liability. In light of these arguments, he prays for the dismissal of the bail application, asserting that the Applicant has committed a serious financial offense and does not deserve the concession of bail.

6. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused, as well as the learned Additional Prosecutor General. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. Upon a thorough and meticulous scrutiny of the case record, It appears that the applicant/accused, due to a business obligation concerning the payment of a huge outstanding amount of Rs. 85 lacs, issued five cheques in favor of the complainant. However, when the complainant deposited these cheques in his account, they were dishonored, as evidenced by the cheque return memos issued by UBL, Azam Town Branch. It is pertinent to mention that an offense under Section 489-F PPC not only affects the immediate victim but also has repercussions on his family. In the present case, the Applicant has failed to establish that the cheques were not dishonestly issued by him for the repayment of a loan or financial obligation. Although the offense under Section 489-F PPC does not fall within the prohibitory clause of Section 497(1) Cr.P.C., this does not automatically render it a bailable offense. The discretion still rests with the Court to determine whether the accused deserves the concession of bail, based on established legal principles governing such matters. It is also significant to highlight that the growing trend of issuing dishonored cheques has severely impacted public confidence in financial transactions. This practice has eroded mutual trust to the extent

that even credible individuals face skepticism when issuing cheques. Such fraudulent financial conduct undermines societal stability, as no person has the right to inflict financial ruin upon another. Furthermore, it is a settled principle of law that while deciding a bail application, the Court must conduct only a tentative assessment rather than a deeper evaluation of evidence. The applicant is, *prima facie*, linked to the alleged offense, and the grounds presented in his defense do not warrant further inquiry within the scope of Section 497(2) Cr.P.C. Therefore, he does not qualify for the concession of bail. The Hon'ble Supreme Court of Pakistan in *Shameel Ahmed v. The State (2009 SCMR 174)* has categorically held that bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case must be examined on its own facts and circumstances. Similarly, in *Afzaal Ahmed v. The State (2003 SCMR 573)*, it was held that the mere fact that an offense does not fall within the prohibitory clause does not automatically render itailable, and the Court retains discretion in granting bail based on established legal principles.

7. In light of the aforementioned reasons, the present bail application, lacking substantive merit, is hereby dismissed. It is expressly clarified that the observations and conclusions rendered in this order are strictly limited to the disposal of the present bail application and do not constitute an opinion on the merits of the case. These remarks shall not be interpreted as prejudicing the rights, claims, or defenses of either party – prosecution or defense – during the trial proceedings. The trial Court shall adjudicate the matter independently, uninfluenced by any findings articulated herein, and solely based on evidence adduced and legal principles applicable at the appropriate stage.

**JUDGE**

