

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Criminal Bail Application No.S- 54 of 2025.

Applicant: Chhemraj S/o Sharwan.
Through Mr. Franscis Locus Khokhar, Advocate.

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

Complainant: Jawaid S/o Muhammad Ashraf
Through Dilawar Hussain Panhwar, advocate.

Date of hearing: 18.03.2025.

Date of order: 18.03.2025.

ORDER

Dr. Syed Fiaz ul Hasan Shah, J: This is a post arrest bail Application.

1. Through this bail application, the Applicant Chhemraj seeks his admission to post arrest bail in Crime No.11 of 2025 under section 489-F, 420 PPC, registered with P.S Digri. After the arrest applicant preferred his bail plea before the Court of Judicial Magistrate-I at Digri vide Criminal Bail Application No.13/2025 (Re-Chhemraj Vs. The State) and same was dismissed vide Order dated 06.02.2025. Thereafter applicant/accused preferred his bail plea before the Court of Additional Sessions Judge-II Mirpurkhas vide Criminal Bail Application No.127/2025 (Re-Chhemraj Versus The State) and same was also dismissed vide order dated 18.02.2025; hence, instant bail application has been maintained.

2. The brief facts of prosecutions' case that the FIR lodged by the complainant Jawaid S/o Muhammad Ashraf on 21-01-2025, are that the present applicant/accused, namely Chhemraj, whom the complainant already knew, purchased his Alto car for a sum of Rs. 1,500,000/-. In consideration of the said amount, the accused issued three cheques of Rs. 500,000/- each, which were dishonored upon presentation. When the complainant contacted the accused regarding the dishonored cheques, the accused initially kept him on false hopes but later flatly refused to make the payment. Consequently, the complainant lodged the FIR.
3. The Applicant has been accused of the offence under Section 489-F, which entails a maximum punishment of three years. The offence does not fall within the prohibitory clause of Section 497, Cr.P.C. which may qualify the matter to be one wherein the grant of bail is a rule and refusal is an exception in view of the dictum laid down by Hon'ble Supreme Court of Pakistan in per **Tariq Bashir and Others Vs. the State, PLD 1995 Supreme Court 34** and **Muhammad Tanvir Vs. the State, PLD 2017 Supreme Court 733**.
4. The Challan has been submitted before the trial and the Applicant is no more required for investigation. Therefore, no fruitful purpose would be achieved while to keep the Applicant into incarceration for an indefinite period of trial. Even the case is based on documentary evidence in shape of cheques, banks record and the Prosecution has no apprehension that the Applicant, if he is released, he might be damaged the prosecution evidence. The Prosecution has not highlighted circumstances, which would indicate that any exceptions to the aforesaid rule as per the said case laws apply in the present case. Under the facts and circumstances of the case in hand, when an investigation has been completed and challan has been

submitted before the trial Court and when the prosecution has not shown any apprehension that the Applicant in case he is freed, he can tamper with the prosecution evidence nor is there any prior conviction and no apprehension of absconding has been expressed at all. It does not appear that the Applicant's incarceration would serve the cause of justice.

5. The rule of bail is greatly inspired by the reasonableness of sufficient material of each case on its own inter dependent merits while formulation of tentative assessment on the basic analogy that if the accused is ultimately acquitted after a long process of the trial, the criminal statutory laws do not provide the alternative remedies or as successive parts to act and perform towards effective measures encompasses the concept of reparation or compensation for long incarceration under charge with unproven or without proven guilt. Hence no fruitful result would achieve to keep the accused under incarceration for indefinite period and keep waiting to the conclusion of trial which may ultimately led either towards the conviction and sentence, one way to utilize such incarceration period vis-à-vis the other alternative way is the acquittal, and in such situation the statutes do not adequately accommodate such long incarceration except the concept of bails. This law has been developed by the Superior Courts and generally recognized as "tentative assessment" of each case according to its facts and own merits. Therefore, after forming tentative assessment and looking to statutory embargo, the present case even otherwise does not fall within prohibitory clause.
6. The Supreme Court of Pakistan in the case of **Chairman NAB v. Nisar Ahmed Pathan**" (PLD 2022 SC 475) has ruled as follows:

“To err in granting bail is better than to err in declining; for the ultimate conviction and sentence of a guilty person can repair the wrong caused by a mistaken relief of bail, but no satisfactory reparation can be offered to an innocent person on his acquittal for his unjustified imprisonment during the trial.”

7. Consequently, the instant bail application is allowed and the Applicant is admitted to bail subject to surety amount in the sum of Rs.500,000/- (Rupees Five Lac) and PR bond in like amount to the satisfaction of the learned Trial Court.
8. The observations made hereinabove are tentative in nature only for the assessment of tentative vies for the purpose of deciding this bail application which shall not affect the trial for determination of guilt or innocence and the trial Court will try the case without being influenced with above observations.
9. The Criminal Bail Application stands disposed of.

JUDGE

“Adnan Ashraf Nizamani”