

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1879 of 2025

Hamza Ibrahim son of Mohammad Ibrahim..... Applicant/Accused

Versus

The State.....Respondent

Date of Hearing : 14.10.2025

Date of Order : 14.10.2025

For the Applicant : Sardar Azmat Hussain, Advocate.

For the Complainant : Qazi Inamullah, Advocate.

For the State : Mr. Muhammad Noonari, DPG.

ORDER

TASNEEM SULTANA, J: Through this bail application the applicant Hamza Ibrahim son of Mohammad Ibrahim seeks pre-arrest bail in Crime No.311 of 2025, registered at Police Station Tipu Sultan, Karachi, under Section 489-F, PPC. Earlier his bail plea was declined by the learned VIth Additional Sessions Judge, Karachi South; he has now approached this Court for pre-arrest bail and interim pre-arrest bail was granted to his vide order dated 21.07.2025. The matter is now fixed for confirmation or otherwise.

2. Brief facts of the prosecution case are that the complainant, Muhammad Asim Jameel son of Muhammad Jameel Afzal, is doing chicken business; that one of his acquaintance (the present applicant), who has been working with him in the chicken business, persuaded him to join hands in doing the business together and therefore, from time to time, the complainant gave him Rs.17,00,000/- and in return to that amount turned into Rs.25,00,000/- profit and after some time the applicant started to give him profit money but thereafter he used delay tactics and made excuses; that the applicant/accused issued four cheques i.e. Cheque No. 10695609 of PKR 90, 000 dated 20.01.2024, Cheque 2 bearing No.10757600 of PKR 1,50,000 dated 16.12.2024, Cheque 3 bearing No.10757576 of PKR 70,000 dated 28-10-2024, Cheque 4 bearing No. 10757586 of PKR 100,000 dated 28.12.2024, all these Cheques were of Bank Al Habib City Tower Shahrah-e-Faisal Branch; that the complainant presented the said cheques to his bank from 28.10.2024

to 31.01.2025, but the cheques were returned to him by the bank due to insufficient funds. Consequently the complainant lodged the present FIR on 16.06.2025.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that the alleged transaction is of civil nature arising out of a chicken business; that the applicant/accused suspects that his cheques may have been stolen by the complainant from the locker of the shop or from the house of the applicant/accused as the complainant developed close relations with the applicant and his family; that there is delay of about seven months in lodging of the FIR; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; that investigation has been completed and challan submitted; that the applicant's custody is no longer required; that in view of the above, the matter requires further inquiry. In support of her contention, learned counsel for the applicant has relied upon the cases reported in *2025 YLR 617*; *2025 MLD 607*, *2025 MLD 781*; *2021 MLD 589*; *2021 P.Cr.L.J Note 88*; *2019 P.Cr.L.J Note 20*.

4. Conversely, learned DPG assisted by learned counsel for the complainant opposes the plea; submits that the applicant issued cheques of a substantial amount which were dishonoured on presentation; that the element of deception and dishonest intention is apparent from the applicant's conduct; that the complainant has produced affidavits and supporting material indicating existence of the transaction; that the offence involves considerable financial loss to the complainant and affects public confidence in commercial dealings; that such acts disturb financial discipline and must be dealt with strictly; hence, the applicant does not deserve the discretionary relief of bail; that the applicant has misused trust and seeks to avoid his lawful liability under the garb of a civil dispute. In support of his contentions, learned counsel for the complainant has relied upon the case laws reported in *2024 SCMR 1719*; *2023 YLR Note 33 Sindh*; *2023 YLR Note 05 Sindh*.

5. Heard. Record perused.

6. It reflects from the record that the alleged transaction arises from the business dealings between the parties. The complainant's claim is based upon the cheques. The authenticity of the business agreements and the purpose for which the cheque(s) were issued can

only be determined after recording of evidence at trial. At this stage, the matter appears to be one of further inquiry within the meaning of Section 497(2), Cr.P.C.

7. The offence alleged under Section 489-F, PPC carries a maximum punishment of three years and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. The settled principle is that in such cases, grant of bail is a rule and refusal an exception. Reliance is placed on Shehzad v. The State (2023 SCMR 679) and Tariq Bashir and others v. The State (PLD 1995 SC 34). The Hon'ble Supreme Court has repeatedly held that bail is neither punitive nor preventive, as punishment begins only after conviction. If a person is mistakenly granted bail, such error can be corrected upon conviction, whereas wrongful pre-trial detention, if ultimately found unjustified, causes irreparable harm to liberty. Reliance is also placed upon the judgment in Nazir Ahmed alias Bharat v. The State and others (2022 SCMR 1467), wherein it was observed as under:

“Section 489-F of P.P.C. is not a provision which is intended by the legislature to be used for recovery of an alleged amount, rather for recovery of any amount, civil proceedings provide remedies, inter alia, under Order XXXVII of C.P.C.”

8. The FIR was lodged more than six months after the cheques were dishonoured, with no plausible explanation of such delay; such inaction, prima facie, raises doubt regarding the bona fides of the complainant. Investigation has been completed, challan has been submitted. The applicant has joined the investigation.

9. In view of the above facts and circumstances, interim pre-arrest bail granted to the applicant Hamza Ibrahim son of Mohammad Ibrahim, vide order dated 21.07.2025 is confirmed on the same terms and conditions and these are the reasons for the same.

10. The applicant shall attend the trial regularly and shall not misuse the concession of bail; any violation shall entail cancellation of bail according to law. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul