IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2924 of 2025

Applicant	:	Zohaib Hassan, through M/s. Sohail Ahmed Memon and Hasnain Ali, Advocates.
Complainant	:	Taj Muhammad, in person.
Respondent	:	The State, through Ms. Rubina Qadir, D.P.G.
Date of Hearing	:	14.11.2025
Date of Order	:	14.11.2025

ORDER

TASNEEM SULTANA, J:- Through this criminal bail before arrest application, the applicant Zohaib Hassan son of Mehmood-ul-Hassan seeks pre-arrest bail in Crime No.714 of 2025 under Sections 489-F, PPC, registered at Police Station Steel Town. Earlier same relief was granted by the learned VIIIth Additional Sessions Judge, Karachi Malir but was recalled vide order dated 23.09.2025.

2. Brief facts of the prosecution case, as set out in the FIR, are that the complainant Taj Muhammad son of Muhammad Furqan is engaged in personal business. It is alleged that the present applicant, Zohaib Hassan son of Mahmood-ul-Hassan, borrowed an amount of Rs.8,30,000/- from the complainant for business purposes. A portion of the said amount was returned. Thereafter, the applicant issued Cheque No. 87988672-A amounting to Rs.480,000/- of his Bank Account with Meezan Bank, in favour of the complainant who presented the same his account at ABL, Gulshan-e-Hadeed Branch, for encashment, but the same was dishonoured due to insufficient funds. On 11.08.2025, the dishonoured cheque was returned to the complainant. It is further alleged that upon demand for repayment, the applicant avoided payment on one pretext or another and also extended threats to the complainant. Consequently, the present FIR was lodged.

3. Learned counsel for the applicant contended that the present applicant is innocent and has been falsely implicated with malafide intention; that the disputed cheque was not issued with dishonest intent, rather it was issued under different circumstances which require evidence to be led at trial; that the essential ingredient of dishonest intention at the time of issuance of cheque is lacking; that the alleged offence does not fall

within the prohibitory clause of Section 497 Cr.P.C.; and that the applicant is ready to face the trial, therefore, he deserves the concession of bail.

4. Conversely, learned D.P.G. opposed the plea and argued that the applicant issued a cheque which was dishonoured upon presentation, thereby defrauding the complainant; that the dishonoured cheque was issued not as a security but towards discharge of a legally enforceable liability; and that such conduct prima facie attracts the mischief of Section 489-F, PPC. She contended that the offence undermines public confidence in financial transactions and does not warrant leniency at the bail stage.

5. Heard. Record perused.

6. It is case of the prosecution that applicant issued a cheque in favour of complainant towards repayment of a borrowed amount, which was subsequently dishonoured due to insufficient funds. However, the applicant maintains that the cheque was issued merely as security, not for immediate encashment. Prima facie, the mere issuance and dishonour of a cheque does not constitute an offence unless accompanied by dishonest intent an element that can only be conclusively determined at trial. At this stage, it cannot be ruled out that the dispute, as reflected on the record, may have arisen from a civil or contractual obligation, rendering the penal provisions of Section 489-F, PPC, inapplicable in the absence of fraudulent intent. Moreover, the investigation has been completed, the challan has been submitted, and the applicant has duly cooperated by joining the investigation pursuant to the interim pre-arrest bail granted by this Court.

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. It is settled principle of law that in cases not falling within prohibitory clause, 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. In view of the above facts and circumstances, interim pre-arrest bail already granted to the applicant/ accused vide order dated 24.10.2025 was confirmed on same terms and conditions, by a short order dated 14.11.2025 and these are the reasons for the same.

9. 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

Shabir/P.S