

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Criminal Miscellaneous Application No. S-681 of 2025
(Muhammad faisal vs Amjad Ali and another)

Date	Order With Signature Of Judges
1.	For order on M.A No. 10827. (E/A)
2.	For hearing of case

26-11-2025

Mr. Zubair Ahmed Sahito, Advocate for the applicant.

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Ali Haider 'Ada' Respondent No.1 is an accused in FIR No.153 of 2025, registered under Section 489-F PPC at Police Station Maripur, Karachi, on the FIR of the present applicant. Respondent No.1 initially approached the trial Court (Judicial Magistrate-I, Karachi West) for post-arrest bail through Bail Application No.100 of 2025, which was declined. Thereafter, he moved the Sessions Judge, West Karachi for the same relief, where the matter was assigned to the learned Additional Sessions Judge-V, Karachi West, who allowed the post-arrest bail. The applicant/complainant, being aggrieved by the grant of bail, has assailed the same through the present application under Section 497(5) Cr.P.C.

2. The complainant states that he is engaged in the transport business and had business relations with the accused. As the complainant alleged that he invested an amount of Rs. 50,00,000/- in the business through cheque transactions, and the accused had agreed to return the invested amount along with Rs.10,00,000/- as profit."Due to such dealings, the accused allegedly issued two cheques amounting to Rs.30,00,000/- each, dated 10.03.2025, which were dishonoured on 15.04.2025. Thereafter, the FIR was lodged on 29.05.2025, and the challan was submitted by the Investigating Officer.

3. Learned counsel for the applicant/complainant submits that the cheques were issued as security under a written agreement between the parties. Since the accused failed to fulfil his business obligations, the cheques were issued and subsequently dishonoured. He argues that the trial Court rightly refused post-arrest bail, but the learned Additional Sessions Judge-V granted bail without properly considering the material on record. He submits that the accused is not entitled to the concession of bail and that the bail order should be cancelled under Section 497(5) Cr.P.C.

4. Heard, and examined the record.

5. It is admitted by the complainant himself that there was a business transaction between the parties. According to the complainant, he invested Rs.50,00,000/- into the business to be run with the accused. However, the complainant has not shown that the cheques in question were issued directly in name of accused; rather, the cheques are

shown as “cash,” which raises a material question as to whether the accused actually received the invested amount. This issue cannot be determined conclusively at this stage and requires evidence at trial. Such matters fall within the ambit of further inquiry, particularly when the transaction appears to arise out of business dealings. Reliance is placed upon **Atif Ali vs. The State (2024 SCMR 2066)**, wherein it was held that whether a cheque was issued with dishonest intention, for repayment of a liability, or merely as a security for a business transaction, is a matter to be determined at trial after recording evidence.

6. Furthermore, the FIR was lodged more than one month after dishonour of the cheques without any plausible explanation. This delay, without justification, has significant legal consequences. Reliance is placed upon **Imran Khan Brohi vs. The State (2025 YLR 617)**.

7. It is also a settled principle that in offences not falling within the prohibitory clause of Section 497 Cr.P.C., grant of bail is a rule and refusal is an exception. Section 489-F PPC does not fall within the prohibitory clause. When the face of the FIR reflects a dispute requiring determination at trial, the accused becomes more entitled to bail as a matter of right. Reference is made to **Muhammad Tanveer vs. The State (PLD 2017 SC 733)**.

8. The scope of cancellation of bail is narrow and limited. Bail once granted can be cancelled only when bail order is perverse, arbitrary, or passed in disregard of legal principles; or accused misuses the concession of bail or there are supervening circumstances. In **Rab Nawaz vs. Shehzad Hassan (2025 SCMR 1357)**, the Hon’ble Supreme Court held:

5. Other than the above, the principles evolved for examining a bail granting order for the purpose of cancellation, the court usually interferes on two grounds: (i) when the impugned order is perverse on the face of it, or (ii) when the impugned order has been made in clear disregard of some principle of the law of bail.¹ A perverse order is the one that has been passed against the weight of the material on the record or by ignoring such material or without giving reasons;² such order is also termed as arbitrary, whimsical and capricious. While it is one of the elementary principles of the law of bail that courts are not to indulge in the exercise of a deeper appreciation of material available on record at the bail stage and are only to determine tentatively, by looking at such material, whether or not there exist any “reasonable grounds” for believing that the accused person is guilty of the alleged offence.³ None of these grounds for cancellation of bail are attracted in the present case. Consequently, we are not inclined to interfere in the impugned order of the High Court. Accordingly, leave to appeal is declined and this petition is dismissed.

9. In the present case, the learned Additional Sessions Judge-V, Karachi West, did not ignore the material on record nor committed any material irregularity. The order is

¹ *Zaro v. State 1974 SCMR 11.*

² *Sidra Abbas v. State 2020 SCMR 2089.*

³ *Farid v. Ghulam Hussan 1968 SCMR 924 and Khalid Saigol v. State PLD 1962 SC 495.*

reasoned, based on tentative assessment, and is in accordance with settled legal principles. No perversity or illegality has been shown that would justify interference by this Court under Section 497(5) Cr.P.C.

10. Keeping in view the above facts and circumstances, and after examining the entire material available on record, no ground is made out to cancel the bail granted to respondent No.1. There is no justification to curtail the liberty of the accused through this application. Accordingly, this Criminal Miscellaneous Application under Section 497(5) Cr.P.C. stands dismissed in *limine*.

JUDGE

Saleem/PS