

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No. 2220 of 2025

Applicant :	M. Jawad through Mr. Abu Bakar Soomro, Advocate.
Complainant :	M. Rizwan through Khawaja Muhammad Azeem, Advocate.
Respondent :	The State through Mr. Muhammad Noonari, D.P.G.
Date of hearing :	22.01.2026.
Date of order :	22.01.2026.

### **ORDER**

**TASNEEM SULTANA, J.**— Through this Criminal Bail Application, the applicant seeks pre-arrest bail in Crime No. 532/2025 registered at P.S. New Karachi, under Section 489-F, P.P.C. Earlier the applicant had approached the learned Additional Sessions Judge-III, Karachi Central, by filing Bail Before Arrest Application No. 1820 of 2025 for the same relief; however, the said application was dismissed vide order dated 26.08.2025. Hence, the instant bail application has been filed for the same concession.

2. Brief facts of the prosecution case are that he had a monetary transaction with the applicant Muhammad Jawad involving an amount of Rs.20,00,000/-, whereupon the applicant issued cheques in his favour which were dishonoured upon presentation; it is further alleged that thereafter a compromise was effected between the parties and the applicant issued seven cheques, out of which Cheque No. 00000096 for Rs.100,000/- and Cheque No. 00000092 for Rs.250,000/-, drawn on Soneri Bank Limited, Sector H-11, were deposited on 13.07.2025 and 14.07.2025, but both were dishonoured, whereafter the present FIR was registered under section 489-F, P.P.C.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case with mala fide intention and ulterior motives; that the complainant has deliberately converted a civil dispute into criminal litigation to pressurize and harass the applicant; that the alleged transaction pertains to monetary liability and the remedy, if any, lies before the competent civil forum; that the alleged offence does not fall within the prohibitory

clause of section 497, Cr.P.C.; that the case, at the most, calls for further inquiry; therefore, the interim pre-arrest bail already granted to the applicant may be confirmed.

4. Conversely, learned Deputy Prosecutor General assisted by learned counsel for the complainant opposed the application and contended that the applicant is specifically nominated in the FIR; that the applicant issued cheques in favour of the complainant, which were dishonoured upon presentation, thereby attracting the penal provision of section 489-F, P.P.C.; that it was the stance of the complainant that the applicant was earlier admitted to bail in Crime No. 311 of 2025 of similar nature on the basis of compromise and dishonour of cheques issued pursuant to such compromise constitutes a fresh offence; and that the applicant has not shown any exceptional circumstance warranting extraordinary relief of bail before arrest.

5. Heard. Record perused.

6. The allegation, as reflected from the FIR, is that the complainant had a monetary transaction with the applicant involving an amount of Rs.20,00,000/-, whereafter the applicant issued cheques in his favour which were dishonoured upon presentation; it is further alleged that thereafter compromise was effected and the applicant issued seven cheques, out of which Cheque No.00000096 for Rs.100,000/- and Cheque No. 00000092 for Rs.250,000/-, drawn on Soneri Bank Limited, Sector H-11, were deposited on 13.07.2025 and 14.07.2025, but both were dishonoured, whereafter the present FIR was registered under section 489-F, P.P.C.

7. At this stage, the Court is not expected to enter into deeper appreciation of evidence; however, a tentative assessment is required to ascertain whether reasonable grounds exist for believing that the applicant is guilty of the alleged offence or the case calls for further inquiry. The competing versions of the parties regarding the nature of transaction, issuance of cheques, existence of legally enforceable liability and plea of false implication are essentially factual in character and require recording of evidence for their determination by the learned trial Court.

8. It has further been contended on behalf of the applicant, as part of his defence, that the dispute between the parties had earlier culminated into FIR No. 311 of 2025, wherein, according to the applicant, the complainant allegedly managed to call him to a hotel, from where he was got arrested. It is further the stance of the applicant that during such course, the complainant allegedly, under pressure and coercion, obtained seven

cheques and also obtained his signatures on blank papers. It is further contended that after securing bail in FIR No. 311 of 2025, the applicant demanded return of his cheques from the complainant; however, only copies were allegedly provided, while the original cheques remained in possession of the complainant.

9. It has further been contended that the applicant has also instituted Civil Suit No. 4335 of 2025 against the complainant seeking declaration and cancellation of the cheques in dispute. At this stage, pendency of civil proceedings by itself does not determine criminal liability; however, it reflects that the dispute between the parties is also subject to adjudication before a competent civil forum, the effect whereof would be determined after recording of evidence.

10. It has also been argued on behalf of the prosecution/complainant that dishonour of cheques allegedly issued pursuant to compromise constitutes a fresh offence. At this stage, whether such aspect can be pressed into service to deny concession of bail before arrest are matters which cannot be conclusively determined without recording evidence.

11. The offence complained of does not fall within the prohibitory clause of section 497, Cr.P.C. Once the case falls outside the prohibitory clause, the principle laid down by the Hon'ble Supreme Court of Pakistan regarding grant of bail as a rule and refusal as an exception becomes applicable. Reliance is placed on **Shehzad v. The State (2023 SCMR 679)** and **Tariq Bashir and others v. The State (PLD 1995 SC 34)**. The august Supreme Court has repeatedly held that bail is neither punitive nor preventive, inasmuch as punishment commences only after conviction. Even if a person is mistakenly granted bail, such error can be corrected at the appropriate stage; however, wrongful pre-trial detention, if ultimately found unjustified, causes irreparable harm to the liberty of an accused. Reliance is also placed upon **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.”

12. In these circumstances, and considering that the controversy raised by the parties is factual in nature and can only be resolved after recording of evidence by the learned trial Court, the applicant has been able to make

out a case for confirmation of the interim pre-arrest bail already granted to him.

13. In view of the above facts and circumstances, the applicant has made out a case for grant of pre-arrest bail. Consequently, the interim pre-arrest bail granted to the applicant vide order dated 29.08.2025 was confirmed on the same terms and conditions vide short order dated 22.01.2026, these being reasons thereof.

**Judge**

Nadeem