

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2583 of 2025

Applicant : Najamuddin son of Jamaluddin, through
Mr. Mohsin Ali Khan, Advocate.

Complainant : Ahmed Ali present in person.

Respondent : The State, through Mr. Muhammad Noonari,
D.P.G.

Date of Hearing : 05.12.2025

Date of Order : 05.12.2025

ORDER

TASNEEM SULTANA, J: Through this Criminal Bail Application, the applicant Najamuddin seeks confirmation of pre-arrest bail in Crime No.626/2025 registered at Police Station Steel Town, Karachi under section 489-F, P.P.C. Earlier, the applicant's plea for pre-arrest bail was allowed; however, the same was recalled by the learned VIIIth Additional Sessions Judge, Malir, Karachi vide order dated 24.09.2025, hence the present application.

2. The brief facts of the prosecution case are that the applicant allegedly issued one cheque for Rs.17,40,000/- bearing No.1372307384 of Allied Bank Limited, Haibat Shaheed Tangwani, District Jacobabad, towards payment of sale consideration in respect of House No.R-375, measuring about 120 square yards, situated at Shah Town. The said cheque, upon presentation by the complainant, was dishonoured due to insufficient funds, leading to registration of the present FIR under section 489-F, P.P.C.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated with mala fide intent; that there is an unexplained delay of more than five months in lodging the FIR; that substantial amounts were transferred into the account of the complainant's son and receipts were issued on stamp paper; that no outstanding amount remains payable by the applicant; that the transaction is civil in nature; that no dishonest intention can be inferred from the material placed on record; and that the case does not fall within the prohibitory clause of section 497, Cr.P.C., thus calling for further inquiry.

4. Conversely, learned D.P.G. opposed confirmation of pre-arrest bail and submitted that the cheque in question was consciously issued by the applicant towards a subsisting liability; that it was deposited in the ordinary course of dealings and dishonoured due to insufficient funds; and that the complainant has placed on record the cheque, bank return memos, legal notice and bank verification. Complainant along with his counsel and submitted affidavit of no objection.

5. Heard. Record perused.

6. It reflects from the material placed on record that the allegation against the applicant pertains to issuance of a cheque which, upon presentation by the complainant, was dishonoured due to insufficient funds. Whether the cheque was consciously issued towards a subsisting liability or was subsequently misused, as alleged by the applicant, is a disputed factual aspect which cannot be conclusively determined at this stage and requires adjudication through evidence during trial.

7. It appears from the record that the complainant has filed an affidavit in support of no-objection, stating therein that the dispute between the parties has been amicably resolved through intervention of respectable persons of the locality and that he has no objection if the interim pre-arrest bail already granted to the applicant is confirmed, as the parties intend to submit a formal compromise before the learned trial Court. The said affidavit is available on record and has not been disputed.

8. The offence complained of does not fall within the prohibitory clause of section 497, Cr.P.C. Once a case falls outside the prohibitory clause, the principle laid down by the Honourable 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 Honourable Supreme Court has consistently held that bail is neither punitive nor preventive, as punishment commences 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 personal liberty. 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.”

9. In these circumstances, and considering the nature of the allegations, the disputed factual aspects requiring evidence, as well as the sworn no-objection expressed by the complainant despite being present before this Court, the applicant has made out a case for confirmation of the interim pre-arrest bail already granted to him.

10. Accordingly, the interim pre-arrest bail granted to the applicant vide order dated 29.09.2025 was confirmed on the same terms and conditions vide my short order dated 05.12.2025 and there are reasons thereof.

11. The above observations are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE