

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 3043 of 2025.

Applicant: Lal Zada through M/s. Kher Muhammad and Habib ur Rehman, Advocates.

Complainant: Syed Ali Hussain through Mr. Gulzar Hussain, Advocate.

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

Date of hearing : 16.12.2025.

Date of order : 16.12.2025.

ORDER

TASNEEM SULTANA, J.:- Through this bail application, applicant Lal Zada seeks pre-arrest bail in Crime No.1585 of 2025 registered at Police Station Sachal Malir, Karachi for offence under Section 489-F PPC. Earlier, the same relief was granted to him by the learned Additional Sessions Judge-VIII, Malir, Karachi, which was later on recalled vide order dated 03.11.2025.

2. Brief facts of the prosecution case are that FIR No.1585 of 2025 has been registered at Police Station Sachal, District Malir, Karachi, under section 489-F PPC, on the complaint of Syed Ali Hussain, who alleged that he advanced an amount of Rs.20,00,000/- to the applicant/accused Lal Zada son of Sarwar Khan for business purposes, whereafter the applicant issued him cheque No.A-96621151 of Meezan Bank, Babar Market Branch. The complainant further alleged that upon presentation of the said cheque in his Bank Al-Habib account No.11300981011160019 on 22.09.2025, the same was dishonoured due to insufficient funds; and despite demand, the applicant avoided payment and made excuses, whereupon the complainant asserted that the cheque was intentionally issued as a fake cheque.

3. Learned counsel for the applicant contended that the F.I.R. has been lodged with mala fide and ulterior motives; that the complainant has neither disclosed the date, place, mode, nor the particulars of the alleged transaction, which are essential to attract section 489-F PPC; that no legally enforceable liability has been shown to exist against the applicant; that the

applicant has no acquaintance with the complainant and never issued any cheque in his favour; that the complainant is merely a front man of a high-ranking police officer, namely AIGP Muzaffar Ali Sheikh, and the case has been registered at his instance; that prior to the instant case, a Constitutional Petition No.S-824 of 2025 was filed by the father of the applicant wherein allegations of illegal detention, torture, and forcible obtaining of blank cheques were levelled; that the said petition was allowed and vide order dated 29.09.2025, directions were issued to the I.G.P., Sindh, and the police were restrained from harassing the petitioner; that despite such restraint order, the present F.I.R. has been lodged as a counter-blast on the basis of a cheque which was forcibly obtained from the brother of the applicant, not from the applicant himself; that the complainant has lodged multiple FIRs on similar allegations against different family members of the applicant, including FIR No.1612 of 2025 against the applicant's elder brother, which *prima facie* reflects abuse of process; and that the basic ingredients of section 489-F PPC are not attracted, therefore, the case calls for further inquiry and the applicant deserves confirmation of interim pre-arrest bail.

4. Conversely, learned D.P.G., assisted by learned counsel for the complainant, contended that the allegations levelled in the F.I.R. are specific and supported by the material placed on record; that the complainant advanced a sum of Rs.20,00,000/- to the applicant for business purposes, whereafter the applicant, in discharge of his liability, issued cheque No.A-96621151 drawn on Meezan Bank, Babar Market Branch; that upon presentation, the said cheque was dishonoured due to insufficient funds, which fact is reflected in the bank memo; that thereafter, despite repeated demands, the applicant avoided repayment and intentionally failed to honour his commitment, which *prima facie* attracts the mischief of section 489-F PPC; that the applicant is seeking to evade the legal consequences of his own conduct by portraying the matter as a civil dispute, whereas the ingredients of the offence are clearly made out; and that pre-arrest bail being an extraordinary concession is not to be granted as a matter of course, therefore, the application is liable to be dismissed.

5. It appears that the prosecution has alleged that the complainant advanced an amount of Rs.20,00,000/- to the applicant for business purposes; that in discharge of such liability the applicant issued cheque No.A-96621151 drawn on Meezan Bank, Babar Market Branch; and that upon presentation of the said cheque in the complainant's Bank Al-Habib

account, it was dishonoured due to insufficient funds, whereafter, despite demand, the applicant avoided repayment. At this stage, on tentative assessment, it *prima facie* appears that the nature of the alleged transaction, the circumstances leading to issuance of the cheque, the existence of a legally enforceable liability and the element of dishonest intent are matters which require deeper probe and are to be determined by the learned Trial Court after recording of evidence; therefore, the case calls for further inquiry within the meaning of section 497(2), Cr.P.C. Moreover, the offence under section 489-F PPC carries maximum punishment up to three years and does not fall within the prohibitory clause of section 497(1), Cr.P.C. Reliance is placed in the case of *Abdul Rasheed v. The State*, (2023 SCMR 1948) wherein the Supreme Court observed as follows:

“Even otherwise, even if the complainant wants to recover his money, Section 489-F of PPC is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. In view of the above, the question of whether the cheques were issued towards repayment of the loan or fulfillment of an obligation within the meaning of Section 489 F PPC is a question, which would be resolved by the learned Trial Court after the recording of evidence. The maximum punishment provided under the statute for the offense under Section 489-F PPC is three years and the same does not fall within the prohibitory clause of Section 497 Cr.P.C. It is settled law that grant of bail in the offenses not falling within the prohibitory clause is a rule and refusal is an exception.”

Similarly in the case of **Abdul Saboor Vs. The State through A.G KPK & another (2022 SCMR 592)**, the Honorable Supreme Court observed that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. and the maximum sentence under Section 489-F PPC was three years, bail should generally be granted rather than refused. The Court emphasized that Section 489-F PPC is not intended to serve as a tool for monetary recovery, which is the domain of civil litigation under Order XXXVII of the Civil Procedure Code. It was reiterated that bail is the rule and refusal an exception in non-prohibitory offences, citing **Muhammad Tanveer case (PLD 2017 SC 733)** wherein it was observed that the allegations involved factual controversies to be determined at trial and that further inquiry was warranted under Section 497(2) CrPC, the Court allowed the petition, converted it into an appeal, and granted bail.

6. The practice of lodging successive FIRs in respect of dishonoured cheques arising out of the same business transaction has been strongly deprecated by this Court in the case of Sheikh Rehan Ahmed v. Judicial Magistrate-II, South, Karachi & others (2019 MLD 636), wherein it was held:

“It becomes a regular practice that multiple post-dated cheques

are obtained regarding some monetary obligations and after getting the same dishonoured by depositing in different bank branches, criminal cases are initiated one after another. The person who has issued the cheques is forced to enter into compromise on the conditions, which are sometimes unbearable for him... the practice of using the provision of Section 489-F by some of the businessmen as the tool of recovery should be put an end.”

7. In view of above discussion, on tentative assessment, the applicant has been able to make out a case for confirmation of interim pre-arrest bail. Consequently, instant pre-arrest bail application is allowed and interim pre-arrest bail already granted to the applicant is hereby confirmed on the same terms and conditions vide short order dated 16.12.2025, and these are the reasons thereof.

8. The observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE