

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 2192 of 2025.

Applicants : Yasir through Mr. Mukesh Kumar Talreja, Advocate.

Complainant : Kashif Aziz through Mr. Syed Safdar Ali, Advocate.

Respondent : The State through Mr. Tahir Hussain, Asstt. P.G Sindh.

Date of hearing : 09.12.2025.

Date of order : 09.12.2025.

O R D E R.

TASNEEM SULTANA, J :- Through this criminal bail application, the applicant seeks grant of pre-arrest bail in FIR No.210 of 2024 registered at Police Station Bahadurabad under sections 489-F/34 PPC. Earlier same relief was granted to the applicant by learned Additional Sessions Judge-IV, Karachi East which was later on recalled, vide order dated 31.7.2025.

2. Brief facts of the prosecution case are that complainant Kashif Aziz lodged the present F.I.R. on 01.04.2024, alleging inter alia that he purchased a house situated in Emaar Building, DHA Karachi from Muhammad Yasir S/o Muhammad Saleh and Usman Naeem Khan S/o Abdul Naeem Khan for a total sale consideration of Rs.4,30,00,000/-, out of which he paid Rs.1,90,00,000/- through bank deposits. It is alleged that despite receipt of the said amount, the accused persons neither handed over possession of the house nor returned the money and, upon repeated demands, issued two cheques from their joint account bearing Nos.150734370 for Rs.47,50,000/- and 150734371 for Rs.4,30,00,000/-, drawn on Habib Metro Bank. The complainant further alleges that he deposited the said cheques in his bank, namely Bank Alfalah, Tipu Sultan Road Branch, however, the same were dishonoured due to insufficient funds. It is further alleged that thereafter the accused persons kept delaying the matter, whereupon the complainant approached the Court by filing Petition No.2402 of 2024, and pursuant to the directions passed therein, the present F.I.R. came to be registered for legal action against the accused persons.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated with mala fide intention; that the complainant was formerly an employee of the applicant's company and after termination of his services, he managed to obtain certain cheques; that the applicant never issued any

cheque in his personal capacity, and the dispute pertains to a civil transaction, which is already subject matter of Civil Suit No.1010 of 2024 pending before a competent civil court, that another FIR bearing No.79 of 2023 on identical allegations and same cause of action was already lodged by the complainant and is pending trial, wherein the complainant has failed to appear repeatedly, resulting in issuance of non-bailable warrants against him; that the present FIR is nothing but misuse of criminal law to pressurize the applicant.

4. Conversely, learned Assistant Prosecutor General, assisted by learned counsel for complainant, opposed the application and submitted that the complainant has specifically alleged payment of a substantial amount towards the agreed sale consideration; that despite receipt of the said amount the accused persons failed to hand over possession/perform their obligation and thereafter issued the cheques in question which were dishonoured due to insufficient funds; that the cheques were issued against a legally enforceable liability, therefore, the ingredients of section 489-F PPC are *prima facie* attracted; that the applicant is not entitled to the extraordinary relief of pre-arrest bail and the application is liable to be dismissed.

5. Heard. Record perused.

6. It appears that the applicant Yasir, along with co-accused, induced the complainant to enter into the alleged property transaction and, upon receipt of part payment, failed to hand over possession/fulfil the commitment; thereafter, the cheques in question were issued which, upon presentation, were dishonoured, thereby giving rise to the present F.I.R. However, *prima facie*, the controversy appears to stem from an alleged sale/purchase arrangement, and civil litigation on the same subject matter is admittedly pending between the parties.

7. Section 489-F of PPC is not a provision which is intended by the Legislature to be used for recovery of an alleged amount. 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. Reliance is placed in the cases reported as **Muhammad Awais Qarni v. The State and others (2025 YLR 1368)** and **Abdul Rasheed v. The State (2023 SCMR 1948.)**

8. 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.

9. In view of the above discussion, on tentative assessment, the applicant has been able to make out a case for confirmation of pre-arrest bail. Consequently, this bail application is allowed and the interim pre-arrest bail earlier granted to the applicant is confirmed on the same terms and conditions vide short order dated 15.12.2025, and these are the reasons thereof.

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

JUDGE

Nadeem