

## IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln. No. 3151 of 2025

Applicant :	Muhammad Zafeer through Ms. Anam Salman, Advocate.
Complainant :	Mst. Ambreen through Mr. Arshad Jamal Siddiqui, Advocate.
Respondent :	The State through Mr. Muhammad Noonari, D.P.G.
Date of hearing :	16.12.2025.
Date of order :	16.12.2025.

### **ORDER**

**TASNEEM SULTANA, J.:-** Through this bail application, the applicant/accused seeks post-arrest bail in Crime No.301 of 2025, registered at Police Station Super Market, Karachi, under section 489-F, P.P.C. His earlier request for the same concession was declined by the learned Additional Sessions Judge-VI / MCTC-02, Karachi Central, vide order dated 27.10.2025; hence, the present bail application.

2. Brief facts of the prosecution case are that the complainant Mst. Ambreen alleged that the applicant/accused obtained an amount of Rs.650,000/- from her for business purposes and, upon demand, issued two cheques i.e. Cheque No.19946155 for Rs.450,000/- and Cheque No.19946156 for Rs.140,000/-, drawn on United Bank Limited, which, upon presentation, were dishonoured with the remark "Insufficient Funds". Hence this FIR.

3. Learned counsel for the applicant contends that the offence alleged does not fall within the prohibitory clause of section 497, Cr.P.C.; that the dispute has arisen out of a monetary transaction, admittedly reflected through banking instruments; that issuance of cheques is not disputed, however, the same were allegedly issued as security; that whether the said cheques were issued towards discharge of a legally enforceable liability is a matter requiring appreciation of evidence; that there is delay in lodging of FIR; and that the applicant is no more required for investigation. It was further contended that continued incarceration would amount to pre-trial punishment. The learned

counsel for the applicant, in support of his contentions, has relied upon the case of **Abdul Rasool v. The State and another (2023 SCMR 1948)**.

4. Conversely, learned A.P.G. assisted by learned counsel for the complainant opposed the application on the grounds that the applicant is specifically named in the FIR; that the amount in question was transferred through banking channels; that the cheques were dishonoured due to insufficient funds; and that the complainant, being a widow, deserves protection of law.

5. Heard. Record perused.

6. It appears that the complainant has alleged that the applicant obtained an amount of Rs.650,000/- from her for business purposes and, upon demand, issued two cheques i.e. Cheque No.19946155 for Rs.450,000/- and Cheque No.19946156 for Rs.140,000/-, which, upon presentation, were dishonoured with the remark "Insufficient Funds."

7. It further appears that although issuance of cheques and their dishonour is not disputed, however, the defence plea is that the cheques were issued as security and not towards discharge of any legally enforceable liability. Such plea, at this stage, raises questions which cannot be conclusively answered without recording evidence. The existence of mens rea and the nature of liability, if any, at the time of issuance of cheques, are matters requiring proper appreciation of facts and documents during trial; therefore, the case, *prima facie*, calls for further inquiry within the meaning of section 497(2), Cr.P.C.

8. The offence under Section 489-F, P.P.C. carries punishment upto three years, hence it does not fall within the prohibitory clause of Section 497(1), Cr.P.C. Reliance is placed 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, P.P.C. does not fall within the prohibitory clause of Section 497, Cr.P.C. and the maximum sentence under Section 489-F, P.P.C. was three years, bail should generally be granted rather than refused. The Court emphasized that Section 489-F, P.P.C. 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), Cr.P.C, the Court allowed the petition, converted it into an appeal, and granted bail.

9. It also appears that the matter is predominantly based upon documentary material already in possession of the prosecution, and the investigation stands completed. The object of bail is neither punitive nor preventive, rather, it is meant to secure attendance of the accused during trial; therefore, continued incarceration of the applicant, at this stage, would amount to pre-trial punishment, which is not the object of law.

10. It further appears that nothing has been shown on record to suggest that the applicant is likely to abscond, tamper with prosecution evidence, or otherwise misuse the concession of bail. In view of the above facts and circumstances, the prosecution case against the applicant, at this stage, calls for further inquiry within the meaning of section 497(2), Cr.P.C. Consequently, the instant bail application was allowed upon furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) and P.R. Bond in the like amount to the satisfaction of the trial Court vide short order dated 16.12.2025 and these are reasons thereof.

11. Needless to say, that the observations made herein above are tentative in nature and shall not prejudice the case of either party at the trial.

**JUDGE**

Nadeem