

IN THE HIGH COURT OF SINDH AT KARACHI.

Criminal Bail Application No. 2925 of 2025

Applicant : Sheikh Asad Aijaz through Mr. Muhammad Faisal, Advocate.

Complainant : Baber Ali through Mr. Shafique Ahmed, Advocate.

Respondent : The State through Mr. Mumtaz Ali Shah, D.P.G.

Date of hearing : 30.3.2026.

Date of order : 30.3.2026.

ORDER.

TASNEEM SULTANA-J:- Through this criminal bail application, the applicant/accused Sheikh Asad Aijaz seeks pre-arrest bail emanating from FIR No. 566 of 2025 registered at Police Station Awami Colony, Karachi East, under Section 489-F PPC. After rejection of his earlier bail before arrest application No. 4302 of 2025 by learned Additional Sessions Judge XII, Karachi, East, vide order dated 01.10.2025, hence this application for the same concession.

2. The brief facts of the prosecution case are that the complainant, Babar Ali, alleged that he invested an amount of Rs.28,50,000/- with accused Sheikh Asad Ajiz for purchasing properties upon the assurance that the accused would pay profit amounting to Rs.6,60,000/- to the complainant after every two months. It is further alleged that the accused paid Rs.4,60,000/- and thereafter failed to pay the remaining amount. Upon repeated demands, the accused allegedly issued cheque bearing No.30275380 dated 28.04.2025 for Rs.25,00,000/- and cheque bearing No.32109878 dated 07.01.2025 for Rs.3,00,000/-, both drawn on Dubai Islamic Bank Limited. However, upon presentation in the complainant's account maintained at Bank Al-Habib, Sector-26 near Bilal Chowrangi Branch, the said cheques were dishonoured, whereafter the present FIR came to be lodged against the accused.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated with mala fide intention and ulterior motives; that the dispute between the parties is purely of civil nature arising out of a business/property transaction; that the complainant instituted Summary Suit No.159/2025 under Order XXXVII CPC for recovery of Rs.28,50,000/- on the basis of the same transaction and dishonoured cheques; that the complainant was previously employed as Accountant/Caretaker in the real estate business of the applicant and had access to office files, documents and cheques; that the applicant had entered into a Sale Agreement dated 07.01.2024 with Abdul Rehman Jatohi regarding property bearing Plot No.C-10, Sector 30-C, Shah Latif Town, District Malir, Karachi, and the complainant had signed the said agreement as a witness ; that the disputed cheques

bearing Nos.32109878 and 30275380 were issued in connection with the said property transaction and were subsequently returned pursuant to compromise deed dated 17.06.2024 executed between the applicant and Abdul Rehman Jatoi; that another compromise deed dated 21.07.2025 was also executed between the complainant and the applicant wherein the complainant allegedly acknowledged that he had taken away the disputed cheques and office documents at the time of termination of his employment and further agreed to return the same to the applicant; that the complainant further acknowledged therein that no claim remained outstanding against the applicant regarding the disputed cheques and that he did not wish to proceed with criminal litigation; that prior to registration of the FIR, the applicant had already moved written applications before SSP East Karachi and SHO PS Sachal Karachi complaining about apprehended misuse of the disputed cheques by the complainant; that the complainant has taken contradictory stands regarding the nature of transaction in the FIR and the summary suit; that there is unexplained delay in lodging the FIR as one cheque is dated 07.01.2025 and the other 28.04.2025 whereas the FIR was lodged on 05.09.2025; that the case of the applicant, therefore, calls for further inquiry within the meaning of Section 497(2), Cr.P.C.; that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C.; and lastly prayed for confirmation of pre-arrest bail

4. Conversely, learned D.P.G., duly assisted by learned counsel for the complainant, opposed the grant of pre-arrest bail and contended that the applicant is specifically nominated in the FIR; that the applicant issued disputed cheques bearing Nos.32109878 and 30275380 towards discharge of liability, which upon presentation were dishonoured; that the applicant has not denied his signatures on the disputed cheques; that pendency of civil proceedings between the parties does not warrant absolvment of the applicant from criminal liability; that pre-arrest bail is an extraordinary relief which cannot be granted in routine manner; and lastly prayed for dismissal of the instant bail application.

5. Heard. Record perused.

6. The material available on record prima facie reflects that the controversy between the parties pertains to a disputed financial transaction. The complainant instituted Summary Suit No.159/2025 under Order XXXVII CPC seeking recovery of Rs.28,50,000/- on the basis of the same transaction and disputed cheque(s). The applicant, on the other hand, has taken a specific plea that the complainant was previously employed in his real estate business as Accountant/Caretaker and had access to office files, documents and cheque(s). According to the defence version, after termination from employment, the complainant allegedly retained disputed cheque bearing Nos.32109878 and 30275380 along with certain office documents and subsequently misused the same by lodging the present FIR.

7. It further appears from the record that the applicant has placed on record a Sale Agreement dated 07.01.2024 executed with Abdul Rehman Jatoy regarding property bearing Plot No.C-10, Sector 30-C, Shah Latif Town, District Malir, Karachi, wherein the complainant appeared as witness. The applicant has also produced compromise deed dated 17.06.2024 executed between the applicant and Abdul Rehman Jatoy wherein specific reference of disputed cheque bearing Nos.32109878 and 30275380 has been made. Prima facie, the said documents support the defence plea that the disputed cheque(s) were issued in connection with the aforesaid property transaction.

8. The record further reveals that another compromise deed dated 21.07.2025 was allegedly executed between the complainant and the applicant whereby the complainant acknowledged receipt of salary amount and agreed to return disputed cheque bearing Nos.32109878 and 30275380 along with office documents to the applicant while also declaring that no claim remained outstanding against the applicant regarding the said cheque(s). Though the genuineness and legal effect of the said document are matters to be determined during trial, nevertheless the same constitutes a relevant circumstance which cannot be ignored at this tentative stage.

9. It is also significant that prior to registration of the FIR, the applicant had moved written applications before SSP East Karachi and SHO PS Sachal Karachi alleging apprehended misuse of the disputed cheque(s) by the complainant. Though such applications by themselves are not conclusive proof of innocence, yet they constitute a relevant circumstance at this tentative stage.

10. At bail stage only tentative assessment of the material available on record is required and deeper appreciation of evidence is to be avoided. The question whether disputed cheque bearing Nos.32109878 and 30275380 were issued towards discharge of legally enforceable liability or were subsequently retained by the complainant after termination from employment, as alleged by the defence, can only be determined after recording of evidence by the trial Court. Likewise, the authenticity and legal effect of the compromise deeds relied upon by the defence also require proper adjudication during trial. Consequently, the case of the applicant calls for further inquiry within the contemplation of Section 497(2), Cr.P.C. It is settled law that where a case calls for further inquiry into the guilt of an accused within the contemplation of Section 497(2), Cr.P.C., the accused becomes entitled to the concession of bail as a matter of right. Reliance in this regard is placed on the case of **Salman Mushtaq & others v. The State through P.G Punjab and another (2024 SCMR 14)**, wherein the Honourable Supreme Court observed as under:-

“6...While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the

indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused..."

11. The maximum punishment provided for the offence under Section 489-F PPC extends to 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 offences not falling within the prohibitory clause is a rule and refusal an exception. Reliance in this regard may be placed upon ***Abdul Rasheed v. The State (2023 SCMR 1948)***, wherein the Honourable Supreme Court observed that Section 489-F PPC is not intended to be used as a tool for recovery of alleged amounts and the question whether the disputed cheque(s) were issued towards fulfilment of liability is to be determined by the trial Court after recording of evidence. Similarly, in ***Abdul Saboor v. The State through A.G. KPK & another (2022 SCMR 592)***, the Honourable Supreme Court reiterated that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. and proceedings under the said provision are not intended to serve as a substitute for civil recovery proceedings.

12. In view of the above facts and circumstances, the applicant has succeeded in making out a case for confirmation of pre-arrest bail. Consequently, the instant bail application was allowed and the interim pre-arrest bail granted to the applicant vide order dated 24.10.2025 was confirmed on the same terms and conditions. These are the reasons for my short order dated 30.03.2026.

13. The observations made hereinabove are tentative in nature and shall not prejudice the learned trial Court while deciding the case on its own merits.

JUDGE