

## IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 3292 of 2025

Applicant : Syed Mazhar Masood Zaidi through  
Mr. Arsalan Saleem Khan Advocate

Complainant : Umar Ali through Mr. Haji Abdul Rehman  
Advocate.

Respondent : The State through Mr. Shoaib Safdar D.P.G.

Date of hearing : 26.03.2026

Date of order : 19.05.2026

### ORDER

**TASNEEM SULTANA, J.:** Through this Criminal Bail Application, the applicant/accused Syed Mazhar Masood Zaidi seeks pre-arrest bail arising out of FIR No. 432 of 2025 registered at Police Station Garden, Karachi, under Section 489-F PPC. Earlier, his bail application was declined by the learned Additional Sessions Judge- II, Karachi, South, vide order dated 05.11.2025; hence, this application for the same concession.

2. The brief facts of the prosecution case are that the complainant Umer Ali alleged that on 20.06.2025 he sold his vehicle bearing registration No. AZD-018 (Toyota Premio) to the applicant for a total sale consideration of Rs. 38,00,000/-, whereafter the applicant issued cheque bearing No. 27725974 dated 07.07.2025 amounting to Rs. 35,00,000/- which upon presentation, the said cheque was dishonoured on account of insufficient funds. It is further alleged that despite repeated demands, the applicant failed to make payment, whereafter FIR came to be registered against him.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case with mala fide intention; that the dispute between the parties is purely of civil nature arising out of a transaction of sale of vehicle and payment dispute; that substantial amount had already been paid by the applicant partly in cash and partly through online transactions; that the cheque in question was retained and subsequently misused by the complainant; that there exists material discrepancy regarding the signatures upon the cheque; that prior to registration of FIR, the complainant had moved an application before SHO Police Station Nabi Bux admitting the transaction and seeking recovery/payment of remaining amount; that there was inordinate and unexplained delay of more than three months in lodging the FIR; and that civil proceedings as well as other litigation between the parties were already pending prior to registration of FIR. Learned counsel further contended that the applicant has joined the proceedings before the

trial Court and his absence was neither deliberate nor intentional; that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C.; therefore, the applicant is entitled to the concession of bail.

4. Conversely, learned A.P.G., assisted by learned counsel for the complainant, opposed the grant of bail and contended that the cheque issued by the applicant was dishonoured upon its presentation; that sufficient material exists connecting the applicant with commission of offence; and that dishonest intention on part of the applicant is apparent from his conduct. However, they could not satisfactorily explain the delay in registration of FIR nor rebut the contention regarding pendency of civil dispute and prior applications exchanged between the parties.

5. Heard. Record perused.

6. A tentative assessment of the material available on record indicates that the dispute between the parties primarily arises out of a transaction relating to the sale of a vehicle and the consequent dispute regarding payment. The record further reflects that prior to registration of the instant FIR, the complainant had moved an application before the police authorities seeking payment of the outstanding amount and transfer of the vehicle. This circumstance prima facie suggests that the controversy between the parties has arisen out of a civil and commercial dispute.

7. The cheque in question is stated to have been issued on 07.07.2025, whereas the FIR was lodged on 24.10.2025 after an unexplained delay of more than three months. The prosecution has not furnished any plausible explanation for such delayed recourse to criminal proceedings. Prima facie, such delay, particularly when viewed alongside the admitted prior disputes and proceedings between the parties concerning the same transaction, calls for deeper appreciation of evidence during trial.

8. The defence plea that a substantial amount had already been paid partly through online banking transactions and partly in cash, coupled with the contention that the signatures appearing on the cheque do not tally with those of the applicant, cannot, at this stage, be brushed aside without recording evidence. The questions whether the cheque in question was issued towards discharge of a legally enforceable liability and whether the signatures appearing thereon belong to the applicant are matters which require deeper appreciation of evidence and can only be conclusively determined during trial. At least tentatively, the material available on record makes the case of the applicant one of further inquiry within the contemplation of Section 497(2), Cr.P.C.

9. Furthermore, the offence under Section 489-F PPC carries maximum punishment of three years and does not fall within the prohibitory clause of Section 497 Cr.P.C. The settled principle of law is that in offences not falling within the

prohibitory clause, grant of bail is a rule and refusal is an exception. Reliance in this regard may beneficially be placed upon the case of **Abdul Rasheed v. The State (2023 SCMR 1948)**, wherein the Hon'ble Supreme Court observed as under:

“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 whether the cheques were issued towards repayment of the loan or fulfilment of an obligation within the meaning of Section 489-F PPC is a question, which would be resolved by the learned Trial Court after recording of evidence. The maximum punishment provided under the statute for the offence 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 offences not falling within the prohibitory clause is a rule and refusal is an exception.”

10. Similarly, in the case of **Abdul Saboor v. The State through A.G. KPK & another (2022 SCMR 592)**, the Hon'ble Supreme Court of Pakistan observed that the offence under Section 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. and that since the maximum sentence provided under Section 489-F PPC is three years, bail should generally be granted rather than refused. The Hon'ble Supreme Court further 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.

11. In view of the above facts and circumstances, the applicant has made out a case for the grant of pre-arrest bail. Consequently, the instant pre-arrest bail application is allowed and the interim pre-arrest bail granted to the applicant vide order dated 05.11.2025 is hereby confirmed on the same terms and conditions.

12. The observations made herein are tentative in nature and shall not influence the learned trial Court while deciding the case on merits.

JUDGE

Nadeem Qureshi \*PA\*