

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.757 of 2026

Applicant : Abdul Rauf, Through: Mr. Shehzada Saleem Rizvi, Advocate.

Complainant : Khalid-uz-Zaman, in person.

The State : The State: Through: Mr. Sharaf-u-Din Kanhar, Assistant Prosecutor General, Sindh

Date of hearing : 25.05.2026

Date of Order : 25.05.2026

ORDER

Jan Ali Junejo, J:-- The applicant Abdul Rauf son of Muhammad Sadiq has moved the instant application under Section 497, Cr.P.C. seeking post-arrest bail in case FIR No.284 of 2024 registered under Section 489-F, PPC at Police Station Tipu Sultan, Karachi. Earlier, his bail application was dismissed by the learned IInd Judicial Magistrate, Karachi South, vide order dated 03.11.2025 and subsequently by the learned Xth Additional Sessions Judge, Karachi South, vide order dated 10.11.2025. Aggrieved thereof, the applicant has approached this Court for the grant of post-arrest bail.

2. Briefly stated, the prosecution case as reflected in the FIR is that the complainant Khalid Uz Zaman, who is engaged in the business of cement supply under the name and style of Madina Cement Depot, allegedly supplied different kinds of cement to the applicant and his son on various occasions. In discharge of the alleged liability, the applicant is stated to have issued cheque No.00663338 dated 22.05.2024 for an amount of Rs.1,296,000/-, while

co-accused Muhammad Ubaid-ur-Rehman allegedly issued another cheque for Rs.250,000/-. Upon presentation before the bank on 03.06.2024, both cheques were dishonoured on account of insufficient funds. It is alleged that despite demand, the accused persons failed to make payment, whereupon the present FIR was lodged on 28.07.2024 under Section 489-F read with Section 34 PPC.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in the present case arising out of a business dispute. He argued that the cheque in question was issued merely as a security cheque during the course of business dealings between the parties and was subsequently misused by the complainant. He further submitted that there is no written agreement, invoice, delivery receipt or any independent documentary evidence showing supply of cement worth the alleged amount. Learned counsel emphasized that there is an unexplained delay of about one and a half months in lodging the FIR after dishonour of the cheque, which renders the prosecution version doubtful. He further argued that the challan has already been submitted, no further investigation is required, the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., and the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. He lastly submitted that the applicant is an elderly person suffering from multiple ailments and prayed for grant of post-arrest bail.

4. Conversely, learned A.P.G., assisted by the complainant present in person, opposed the bail application and argued that the applicant is specifically nominated in the FIR and had issued the

cheque which was dishonoured due to insufficient funds. It was contended that the material collected during investigation supports the prosecution case and the conduct of the applicant reflects dishonest intention. Learned A.P.G. further submitted that both the Courts below have concurrently declined bail after examining the available material and no exceptional ground exists for taking a different view. He, therefore, prayed for dismissal of the bail application.

5. I have heard learned counsel for the parties and have carefully examined the material available on record. A tentative assessment of the record reflects that the prosecution case arises out of an alleged commercial transaction between the parties. The defence taken by the applicant is that the cheque in question was issued in connection with business dealings and has subsequently been misused by the complainant. The respective claims of the parties regarding the nature of the transaction, the circumstances leading to the issuance of the cheque, and the liability arising therefrom are disputed questions which require recording of evidence and deeper appreciation of facts, a course not permissible at the bail stage.

6. It is further noted that, according to the prosecution case, the cheque was dishonoured on 03.06.2024, whereas the FIR was lodged on 28.07.2024. The effect of such delay and the explanations attached thereto are matters which shall ultimately be determined by the learned trial Court after recording evidence; however, at this stage the same constitute circumstances requiring tentative consideration.

7. The record further reveals that investigation has already been completed and challan has been submitted before the learned trial Court. Therefore, the applicant is no longer required for the purpose of investigation. The offence alleged against the applicant does not fall within the prohibitory clause of Section 497, Cr.P.C. At the bail stage, only a tentative assessment of the material available on record is required, and no finding involving a deeper examination of the merits of the controversy can be recorded. The questions regarding the existence or otherwise of criminal liability, as well as the respective pleas raised by the parties, are matters to be resolved by the learned trial Court after recording evidence. In the circumstances of the case, the matter appears to call for further inquiry within the meaning of Section 497(2), Cr.P.C. The record further shows that the prosecution evidence is yet to be tested during trial and no exceptional circumstance has been pointed out requiring the continued detention of the applicant. The applicant has remained in custody, investigation has been completed, and the case is to proceed before the trial Court in accordance with law. In case where bail was granted in an offence under Section 489-F, P.P.C. i.e., *Ali Anwar Paracha v. The State and another (2024 SCMR 1596)*, the Honourable Supreme Court of Pakistan held that: *"In this view of the matter, the question whether the cheque was issued towards fulfilment of an obligation within the meaning of section 489-F, P.P.C. is a question, which would be resolved by the learned Trial Court after recording of evidence. The petitioner is behind the bars since his arrest. The maximum punishment provided under the statute for the offence under section 489- F, P.P.C. 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 offences not falling within the prohibitory clause is a rule and refusal is an exception". In another similar offence under Section 489-F, P.P.C., in the case of *Muhammad Anwar v. The State and another* (2024 SCMR 1567), the Honourable Supreme Court of Pakistan was pleased to grant bail by observing that: "In view of the above, the question whether the cheques were issued towards repayment of loan or fulfillment of an obligation within the meaning of Section 489-F, P.P.C. 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, P.P.C. 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 offences not falling within the prohibitory clause is a rule and refusal is an exception". In another similar case involving an offence under Section 489-F, P.P.C., wherein bail was granted, namely, *Aqeel Ahmed Khan v. The State through Federal Prosecutor General, Islamabad and another* (2025 SCMR 1955), the Honourable Supreme Court of Pakistan held as follows:

"The petitioner is alleged to have committed the offence under section 489-F of P.P.C. The said offence is, admittedly, of the category which falls within the non-prohibitory clause of section 497 of the Code of the Criminal Procedure, 1898 ('Cr.P.C.'). This Court has consistently held that while considering the grant of bail, where offences fall within the non-prohibitory clause, the granting of bail has to be considered favourably as a rule, but may be declined in exceptional cases. The extra ordinary and exceptional cases, inter alia, includes likelihood of abscondence of the accused; apprehension of the accused tempering with the prosecution evidence; and the danger of the offence being repeated¹. It is further noted that the quantum of amount involved in a case registered under section 489-F cannot be treated as an exception to the

general rule that in cases falling under the category of non-prohibitory clause, bail shall be considered favourably. The offence under section 489-F of P.P.C. is not a provision which is intended by the legislature to be used for recovery of the alleged amount”.

8. For the foregoing reasons, and without making any observation touching upon the merits of the case, the instant bail application is allowed. The applicant/accused Abdul Rauf son of Muhammad Sadiq is admitted to post-arrest bail in Crime No.284 of 2024 registered under Section 489-F, PPC at Police Station Tipu Sultan, Karachi, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. It is, however, clarified that all observations hereinabove are purely tentative and confined to the adjudication of the present bail application. Nothing stated in this Order shall be construed as an opinion on the merits of the case, and the trial Court shall proceed independently, uninfluenced by any observations contained herein. These are the detailed reasons for the short order dated 25.05.2026.

JUDGE