THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2030 of 2026

Applicant	:	Waheed Aziz son of Aziz-ur-Rehman Qureshi through Mr. Wahid Hussain Kazi, Advocate
Complainant	:	Muhammad Talha Khan son of Humayun Khan through Mr. Shahzada Saleem, Advocate
Respondent	:	The State through Ms. Rubina Qadir, Additional Prosecutor General, Sindh
Date of hearing	:	30.10.2026
Date of decision	:	30.10.2026

O R D E R

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant–Waheed Aziz son of Aziz-ur-Rehman Qureshi, seeks pre-arrest bail in Crime No.108 of 2026, registered at Police Station Model Colony, Karachi, for an offence punishable under Section 489-F, PPC. The Applicant has called in question the Order dated 04.07.2026, passed by the learned VIth Additional Sessions Judge, Karachi East, whereby his application for pre-arrest bail was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court *vide* Order dated 07.07.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that Complainant, namely, Muhammad Talha Khan son of Humayun Khan, appeared at the police station and recorded his statement under Section 154 Cr.P.C., wherein, he alleged that his acquaintance, Waheed Aziz son of Aziz-ur-Rehman Qureshi, had borrowed Rs.6,400,000/- from him for three months on the pretext of his mother's surgical operation. Subsequently, upon repeated demands, the accused issued two cheques of Rs.3,200,000/- each. However, one cheque bearing No.11221678, dated 04.09.2025, drawn on the account of M/s Al-Rayan Associates, Bank Al Habib Limited, Model Colony Branch, Karachi, when presented for encashment, was dishonoured on 01.12.2025 due to signature mismatch and insufficient funds; hence, this FIR.

3. Learned Counsel for the Applicant argued that the Applicant is innocent and has falsely been implicated in this case by the Complainant to pressurize him for recovery of a disputed amount. It was argued that the cheque in question was issued as security and not towards discharge of

any legally enforceable liability. He further argued that the Applicant has committed no offence and there is a dispute of civil nature. He further argued that FIR was lodged with an inordinate delay of four months without any plausible explanation and that the essential ingredients of Section 489-F PPC, including dishonest intention and *mens rea* at the time of issuance of cheque are completely missing. He further argued that there is no direct or indirect evidence connecting the Applicant with the commission of offence. He further argued that Section 489-F PPC is not hit by the prohibitory clause of Section 497 Cr.PC, and that the Applicant has joined the investigation and has not misused the concession of interim protection; therefore, he prays that the pre-arrest bail may be confirmed.

4. Learned Counsel for the Complainant, on the other hand, argues that the Applicant is directly connected with the transaction in question and that the cheque was issued towards discharge of liability which was dishonoured on presentation. He contends that the dishonour of cheque has caused serious financial loss to the Complainant, that the Applicant is avoiding his liability under the guise of a civil dispute, and that he does not deserve the extraordinary relief of pre-arrest bail; hence, he prays that the application be dismissed.

5. Learned Additional Prosecutor General, Sindh argues that the offence is duly reflected from the contents of the FIR and supporting material, that the cheque was dishonoured, and that sufficient *prima facie* material is available to connect the Applicant with the commission of the offence. She contends that pre-arrest bail is an extraordinary relief which cannot be granted as a matter of course, particularly where the accused has allegedly misused earlier concessions, and therefore she prays that the present pre-arrest bail application be dismissed.

6. I have given thoughtful consideration to the arguments advanced by the learned Counsel for the Applicant, Additional Prosecutor General, Sindh as well as Complainant’s Counsel and have carefully examined the record with a tentative assessment, as is permissible at the bail stage. It is well settled that pre-arrest bail is an extraordinary relief, intended to protect innocent persons from abuse of the process of law, undue harassment, humiliation, or mala fide arrest. At this stage, the Court is not required to undertake a deeper appreciation of evidence; rather, it is to make a tentative assessment of the material available on record. For attracting the provisions of Section 489-F, P.P.C., the prosecution is required, at least prima facie, to establish the following essential ingredients: (i) issuance of a cheque by the accused; (ii) issuance of such

cheque dishonestly; (iii) existence of a legally enforceable debt, liability, or obligation; (iv) knowledge or *mens rea* at the time of issuance that the cheque would be dishonoured; and (v) dishonour of the cheque upon its presentation. It is by now settled law that mere dishonour of a cheque, by itself, does not constitute an offence under Section 489-F, P.P.C., unless all the aforesaid ingredients coexist. The mode of transaction, consideration, and foundation of liability has not been disclosed, which are fundamental prerequisites for invoking Section 489-F PPC. Equally significant is the fact that the FIR does not allege any dishonest intention (mens rea) on the part of the present Applicant at the time of issuance of the cheque. There is no assertion that the Applicant knowingly issued the cheque with the intention that it would be dishonoured. In the absence of such allegation, the essential element of dishonesty, being the soul of Section 489-F PPC, remains unestablished at this stage.

7. It appears that the FIR was lodged after an unexplained delay of approximately four months, for which no plausible explanation has been furnished, which, at this tentative stage, casts doubt upon the veracity of the prosecution case. It further appears that the dispute between the parties emanates from a business transaction and, prima facie, bears the character of a civil dispute. Moreover, the contention that the cheque in question was issued merely by way of security and not towards the discharge of any legally enforceable liability requires deeper examination at trial. These circumstances, when considered collectively, tentatively suggest that the case of the Applicant requires further inquiry within the meaning of Section 497(2), Cr.P.C.

8. In view of the absence of: allegation of dishonest intention made out the case of further inquiry, the core ingredients of Section 489-F PPC cannot be conclusively determined without recording of evidence. These aspects require deeper probe and proper appreciation at trial. Consequently, the case, so far as the present Applicant is concerned, squarely falls within the ambit of “further inquiry” as envisaged under Section 497(2) Cr.P.C.

9. In similar circumstances, where bail was granted in an 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".

10. Keeping in view the settled principles of law governing pre-arrest bail, this Court is of the tentative view that the Applicant has made out a case for confirmation of pre-arrest bail. Consequently, the ad-interim pre-arrest bail granted to Applicant-Waheed Aziz son of Aziz-ur-Rehman Qureshi *vide* Order dated 07.07.2025 in Crime No.108 of 2026, registered at Police Station Model Colony, Karachi, for offence under Section 489-F PPC, is hereby confirmed, subject to the same terms and conditions. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

JUDGE

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