IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.3241 of 2026

Applicant	:	Faaiz son of Abdul Hafeez *Through* M/s. G.M. Korai and Saad Korai, Advocates.
Respondent	:	The State *Through* Mr. Muhammad Mohsin Mangi, A.P.G. Sindh duly assisted by Mr. Sardar Azmat Hussain, Advocate for Complainant.
Date of hearing	:	06.11.2026
Date of Order	:	06.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** Applicant Faaiz seeks post-arrest bail in a case bearing Crime No. 228/2026 offence U/S 489-F, PPC of P.S. Kharadar, Karachi, having unsuccessfully approached the learned XI Additional Sessions Judge, Karachi South, who declined the concession vide order dated 18.09.2026.

2. The prosecution case, briefly, is that complainant Rasikh Yahya invested Rs.4,00,00,000/- in the applicant's confectionery business on the assurance of sharing profits. Upon the applicant's alleged failure to return the investment and promised profits, he issued seven cheques aggregating to Rs.1,04,00,000/-, which were dishonoured upon presentation, resulting in registration of the FIR on 14.08.2026.

3. Learned counsel for the applicant submits that the parties had longstanding business dealings; that the actual investment was Rs.1,05,00,000/-, against which Rs.1,55,00,000/- had already been repaid, partly through banking channels and partly in cash; and that the complainant, despite settlement of accounts, retained and misused the cheques. He refers to numerous bank transactions, WhatsApp correspondence, the alleged settlement before a jirga, and FIR No. 239/2026 lodged by the complainant's father concerning allegedly connected dealings. According to him, the nature and extent of the financial obligation, adjustment of payments and dishonest intention require further inquiry. He emphasizes that the offence carries a maximum sentence of three years, investigation has concluded, and further

incarceration serves no useful purpose. Reliance is particularly placed upon 2026 SCMR 792[1].

4. Conversely, learned counsel for the complainant, assisted by the learned A.P.G., opposes bail, contending that issuance of the seven cheques is not denied and their dishonour for insufficient funds stands established through bank return memos and verification obtained during investigation. The alleged repayments, mostly involving third-party accounts, do not establish satisfaction of the liability represented by the cheques. The purported settlement and misuse of instruments are disputed questions requiring evidence. Learned counsel further submits that the magnitude of the transaction and the applicant's involvement in another case of similar nature disentitle him to discretionary relief. Reliance is placed upon 2009 SCMR 174[2], PLD 2021 SC 903[3], 2021 SCMR 1466[4], 2022 SCMR 2040[5], and other judgments furnished at the Bar.

5. Heard learned counsel for the respective parties at length and perused the material placed on record. The offence under Section 489-F, PPC, requires dishonest issuance of a cheque towards repayment of a loan or fulfillment of an obligation, followed by its dishonour. Mere dishonour, though relevant, does not dispense with the requirement of dishonest intention and the existence of the underlying obligation. Equally, a plea of security, repayment or civil liability does not automatically defeat criminal prosecution. These questions must be examined in the context of the transaction and the available evidence.

6. Admittedly, the complainant's own version traces the transaction to an investment in a business against sharing of profits. Although he claims to have invested four crore rupees, the disputed cheques represent Rs.1,04,00,000/-. This disparity, while not conclusive, renders the nature and extent of the alleged outstanding liability a relevant consideration. The applicant has produced banking receipts reflecting numerous transfers, including payments directly to the complainant and others allegedly associated with him. Their authenticity, purpose and adjustment against the disputed cheques remain contested. Nevertheless, the material cannot be ignored altogether merely because the applicant has not conclusively established repayment. The admitted commercial relationship and

---

[1] Hakeem alias Peer v. The State and another
[2] Shameel Ahmed v. The State
[3] Muhammad Imran v. The State and others
[4] Syed Hasnain Haider v. The State and another
[5] Malik Muhammad Tahir v. The State and another

competing accounts raise questions concerning the subsistence of the obligation and the applicant's intention at the time of issuance, requiring examination through evidence.

7. The alleged jirga, WhatsApp correspondence and retention of signed cheques are likewise matters requiring proof. The connected FIR lodged by the complainant's father neither invalidates the present prosecution nor, without examination of its underlying transaction, establishes habitual criminal conduct. The interval between dishonour and registration of the FIR is also a circumstance to be evaluated with the remaining evidence, though delay alone is not decisive. These matters, viewed cumulatively, call for a tentative rather than conclusive assessment at this stage.

8. The governing principle has recently been reiterated by the Supreme Court in 2026 SCMR 792[6], wherein, while considering offences under Sections 420, 406, 489-F and 34, PPC, it was held that bail in non-prohibitory offences is ordinarily to be favourably considered and may be refused only upon existence of exceptional circumstances, including likelihood of absconding, tampering with prosecution evidence or repetition of the offence. The Supreme Court further observed that where investigation has concluded and no such exceptional circumstances are demonstrated, continued incarceration serves no useful purpose. The principle applies with considerable force to the present case.

9. The contrary authorities cited by learned counsel for the complainant do not detract from this principle. In Shameel Ahmed (2009 SCMR 174), Muhammad Imran (PLD 2021 SC 903), Syed Hasnain Haider (2021 SCMR 1466) and Malik Muhammad Tahir (2022 SCMR 2040), refusal of bail rested upon peculiar circumstances, including repeated criminal conduct, absconding, absence of a plausible explanation regarding the disputed instruments, or independent material indicating fraudulent transactions. Those decisions establish that non-prohibitory offences do not confer an indefeasible right to bail; they do not dispense with the necessity of demonstrating circumstances warranting refusal. In the present case, no material has been shown establishing that the applicant is an absconder, has threatened witnesses or is likely to interfere with the prosecution evidence. The single connected FIR lodged by the complainant's father, without examination of its independent factual foundation, is insufficient to establish habitual offending. The investigation has culminated in submission of the challan, and the relevant evidence,

[6] Hakeem alias Peer v. The State and another

principally comprising banking instruments and records, is already available to the prosecution.

10. The learned Additional Sessions Judge appears to have attached decisive weight to the issuance and dishonour of the cheques and the applicant's inability to conclusively substantiate adjustment of the liability. Such an approach overlooks that a bail proceeding does not require the accused to establish his defence to the standard necessary for acquittal. The essential inquiry is whether continued deprivation of liberty is justified upon tentative assessment of the available material. The underlying commercial relationship, disputed accounts and documentary evidence of payments, when considered with the non-prohibitory nature of the offence and absence of demonstrated exceptional circumstances, sufficiently distinguish the present case from the authorities relied upon by the complainant. Moreover, Section 489-F, PPC, is a penal provision against dishonest issuance of cheques, not a mechanism for coercive recovery of disputed financial claims. The criminal and civil remedies may coexist, but pre-trial incarceration cannot be employed as an instrument of recovery. Reference may also be made to 2023 SCMR 1948[7] and 2022 SCMR 592[8].

11. In these circumstances, the applicant's case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. No exceptional circumstance justifying continued incarceration has been established. The impugned order, insofar as it declines bail, is consequently unsustainable. Accordingly, this application is allowed. Applicant Faaiz is admitted to post-arrest bail upon furnishing solvent surety in the sum of Rs.500,000/- (Rupees Five Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

12. The observations herein are purely tentative and shall not prejudice either party at trial. The trial Court shall decide the case independently, strictly on the evidence brought before it.

J U D G E

[7] Abdul Rasheed v. The State and another
[8] Abdul Saboor v. The State and another