

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench:

Mr. Justice Athar Minallah
Mr. Justice Ali Baqar Najafi

Criminal Petition No.960 of 2025

(Against order dated 09.05.2025 of the
Islamabad High Court, Islamabad
passed in CrI. Misc. No.753-B of 2025)

Aqeel Ahmed Khan

...Petitioner

Versus

The State through Federal Prosecutor General,
Islamabad and another

...Respondents

For the petitioner: Raja Mohammad Nadeem, ASC

For the State: Mr. Abdul Khaliq Thind, ASC
a/w Tauqir Abbas, SI

Complainant: Nazir Hussain, in person

Date of hearing: 12.08.2025

ORDER

Athar Minallah, J.- The petitioner, Aqeel Ahmed Khan, was nominated in crime report No.201 dated 28.03.2023 registered at Police Station Margalla, Islamabad for commission of the alleged offence under section 489-F of the Pakistan Penal Code, 1860 ('PPC'). The petitioner was arrested on 23.01.2025 and he had sought post arrest bail which was declined by the trial court vide order dated 26.03.2025. The petitioner's post arrest bail was also dismissed by the High Court vide the impugned order dated 09.05.2025.

2. We have heard the learned counsel for the petitioner as well as the learned State Counsel. The complainant is also in attendance and he had stated that he did not intend to engage a counsel. The record has been perused with the able assistance of the learned counsels.

3. The petitioner is alleged to have committed the offence under section 489-F of PPC. 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 PPC is not a provision which is intended by the legislature to be used for recovery of the alleged amount. The criminal proceedings are meant to determine the guilt and then to sentence an accused. The legislature has set out the framework for recovery of an alleged amount in case of a dishonoured cheque under Order XXXVII of the Civil Procedure Code, 1908. The petitioner in this case is, therefore, entitled to be granted bail since the State counsel has not been able to persuade us that exceptional circumstances exist in order to justify denying to the petitioner the concession of post arrest bail. Moreover, whether or not the alleged offence is attracted in the facts and circumstances of this case also require further probe.

¹ *Zafar Iqbal v. Muhammad Anwar and others* (2009 SCMR 1488), *Subhan Khan v. The State* (2002 SCMR 1797) *Tariq Bashir and others v. The State* (PLD 1995 SC 34) *Raja Jafar Tariq v. Muhammad Nadeem Dar and others* (2011 SCMR 1708)

4. In view of the above, this petition is converted into an appeal and is allowed. The petitioner is granted post arrest bail subject to furnishing bail bonds in the sum of rupees one hundred thousand (Rs.100,000/-) with one surety to the satisfaction of the trial court. Needless to observe that the observations made in this case are based on a tentative assessment of the record placed before us and shall not, in any manner, prejudice the pending proceedings.

Islamabad, the
12th August, 2025
"Approved for reporting"
Sarfraz Ahmad/-