

Supreme Court: Section 489-F Cannot Be Used to Recover Disputed Business Debt Through Security Cheques

The Supreme Court confirmed pre-arrest bail where the cheque amount materially exceeded the liability found in investigation, supporting the defence that the cheques secured ongoing business dealings rather than a fixed debt.

Supreme Court criminal and commercial law analysis
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Case: Criminal Petition for Leave to Appeal No. 1448 of 2026

Court and date: Supreme Court of Pakistan | 22 September 2026

Bench: Justice Jamal Khan Mandokhail, Justice Naeem Akhter Afghan and Justice Aqeel Ahmed Abbasi

Result: Pre-arrest bail confirmed; Lahore High Court order set aside

The ruling in one sentence

The Supreme Court of Pakistan held that Section 489-F of the Pakistan Penal Code is meant to punish a dishonest issuance of a cheque against an established obligation, not to recover a disputed commercial claim through pressure, and confirmed pre-arrest bail where the cheque amount and the liability found during investigation materially differed.

The reported order is Farman Ali Khan v The State and another, Criminal Petition for Leave to Appeal No. 1448 of 2026. Justice Aqeel Ahmed Abbasi authored the order for a three-member bench comprising Justice Jamal Khan Mandokhail, Justice Naeem Akhter Afghan and Justice Aqeel Ahmed Abbasi. The matter was heard on 22 September 2026.

The allegation and the rejected bail application

The allegation was that Farman Ali Khan had fraudulently issued a cheque for Rs5,847,000 in favour of the complainant and that the bank dishonoured it when presented for payment.

The petitioner sought pre-arrest bail before the Lahore High Court. That application was dismissed on 17 July 2026 in Criminal Miscellaneous No. 39257-B of 2026. He then approached the Supreme Court through a petition for leave to appeal.

The Supreme Court had already granted him interim pre-arrest bail on 7 September 2026. The reported order decided whether that protection should be confirmed.

The defence: security cheques and a disputed account

The petitioner argued that the cheques had been delivered only as security for continuing business transactions. According to him, they were not issued to discharge a presently due and fixed debt.

He also relied on delay in registration of the FIR and alleged that the criminal case was a fabricated attempt to enforce a civil liability. His most important factual point came from the investigation itself: the investigating officer determined the outstanding liability at Rs1,700,000 rather than the Rs5,847,000 stated in the cheque and FIR.

The defence contended that this difference undermined the assertion of a settled liability for the full cheque amount and required further inquiry into dishonest intention, the nature of the business

arrangement and the purpose for which the cheques had been handed over.

The prosecution and complainant's position

The State and the complainant opposed bail. They argued that the petitioner was specifically nominated, the issuance of the cheques was not denied, and the police had found him involved during investigation.

They also maintained that the record did not establish any mala fide or false implication by the complainant. On that basis, they sought dismissal of the petition.

Why the investigation changed the bail analysis

The Supreme Court found a stark contradiction between the FIR and the investigating officer's conclusion. The FIR alleged default of Rs5,847,000, while the investigation placed the actual liability at no more than Rs1,700,000.

This was not a minor calculation difference. It went directly to the nature and extent of the obligation allegedly supported by the cheque. If the specified sum did not represent an established and undisputed debt on the date of issuance, the prosecution's assertion that the instrument had been dishonestly issued to fulfil an obligation required closer examination.

The discrepancy prima facie supported the petitioner's position that the cheques were used as surety or security in an ongoing commercial relationship. It therefore created a question that could not finally be resolved at the bail stage and fell within further inquiry.

What Section 489-F actually punishes

Section 489-F PPC does not criminalize every dishonoured cheque. Its application depends on the cheque having been issued dishonestly towards repayment of a loan or fulfilment of an obligation and then being dishonoured on presentation.

The Supreme Court treated dishonest intention and an established liability as central elements. Where the instrument functions as security during ongoing business dealings and the amount allegedly due remains disputed, the mere fact of dishonour does not conclusively establish the criminal offence.

The order states the broader purpose clearly: Section 489-F is designed to punish fraudulent defaults. It is not a debt-recovery mechanism and should not be used as a coercive tool to enforce disputed monetary claims arising from commercial arrangements.

That principle protects the boundary between civil and criminal law. A genuine fraudulent cheque can attract criminal liability, but a party should not obtain criminal leverage merely by placing a contested business account behind a cheque.

Why the dispute appeared predominantly civil

The Court considered the underlying disagreement predominantly civil in nature. The amount was contested, the police investigation did not support the full figure alleged in the FIR, and the defence that the cheques secured ongoing transactions had prima facie support.

On the material available at the bail stage, the attempt to transform that dispute into criminal proceedings for pressure indicated mala fide and an ulterior motive on the complainant's part. That finding was tentative and made for deciding pre-arrest bail; it was not a final adjudication of the accounts or criminal charge.

This is important because pre-arrest bail ordinarily requires the accused to show that arrest is being sought for an improper purpose or that the criminal process is being abused. The Court found that threshold satisfied in the circumstances before it.

Further inquiry and the prohibitory clause

The offence under Section 489-F carries a maximum punishment of three years and does not fall within the prohibitory clause of Section 497 of the Code of Criminal Procedure.

The Supreme Court reiterated that bail in offences outside the prohibitory clause is the rule and refusal

is the exception. An exceptional refusal may be justified by circumstances such as a proven risk that the accused will abscond or tamper with prosecution evidence.

No such extraordinary circumstance was identified in the order. In addition, the difference between the cheque amount and the liability found by the investigating officer required further probe. These considerations supported confirmation of pre-arrest bail.

The final order

The Supreme Court allowed the petition, set aside the Lahore High Court's order dated 17 July 2026 and confirmed the interim pre-arrest bail granted on 7 September 2026 on the bail bonds already furnished.

The Court expressly stated that its observations were tentative and would not influence the trial court when deciding the case on merits.

The order was approved for reporting.

What the judgment means for cheque cases

For a complainant, presenting a dishonoured cheque is not enough where the underlying liability is seriously disputed. The prosecution material should show the transaction, the obligation existing when the cheque was issued, the amount actually due and facts supporting dishonest intention.

For an accused relying on a security-cheque defence, a bare assertion will ordinarily be weak. The defence should identify the commercial relationship, running accounts, invoices, payments, correspondence and any investigation finding that contradicts the amount alleged in the FIR.

For investigators, it is necessary to examine the underlying accounts rather than treating the face value of the cheque as self-proving. A finding that a materially different amount was due may alter the legal character of the case and raise further inquiry.

For courts deciding bail, the inquiry should distinguish a cheque issued against a fixed and admitted obligation from an instrument retained as security for fluctuating or unsettled business dealings.

What the judgment does not hold

The judgment does not declare that every cheque described as a security cheque is outside Section 489-F. The court must test that description against the transaction and evidence.

It does not hold that the petitioner's actual liability was finally fixed at Rs1,700,000. That was the investigating officer's conclusion and a circumstance relevant to bail; the trial and any civil accounting remained open.

It does not acquit the petitioner or terminate the criminal case. The bail observations were expressly tentative.

It also does not prevent civil recovery of any amount lawfully due. The ruling prevents criminal process from being used as a substitute for proving and recovering a disputed commercial debt through the proper forum.

Practical legal position

Farman Ali Khan provides a direct and current Supreme Court statement on the misuse of Section 489-F in commercial disputes. The central question is not simply whether a cheque was issued and dishonoured. It is whether the cheque represented an existing and established obligation and whether dishonest intention can prima facie be attributed to the accused.

Where the prosecution's own investigation materially contradicts the amount alleged and supports the possibility that the cheque was security for ongoing business, the case may require further inquiry and the arrest may appear coercive rather than investigative.

This commentary is independent legal analysis for research and general information. The complete order, FIR, cheque, business accounts, investigation record, current statutory text and later judicial treatment should be checked before reliance in proceedings.