

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-474 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

30.08.2019.

Applicant Syed Nisar Ahmed Rizvi in person.

Ms. Safa Hisbani, A.P.G.

Syed Kamran Ali, advocate for the complainant.

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Irshad Ali Shah J;- It is alleged that the applicant issued a cheque worth of rupees one hundred lac dishonestly in favour of complainant Syed Shahid Raza, it was bounced when was presented before the concerned Bank for encashment for that the present case was registered.

2. The applicant on having been refused pre arrest bail by the learned 3rd Additional Sessions Judge, Hyderabad has sought for the same from this court by way of instant application U/S 498 Cr.P.C.

3. It is contended by the learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant in order to satisfy his matrimonial dispute with him; the FIR of the incident has been lodged with delay of about 03 months and offence is not falling within prohibitory clause of section 497(2) Cr.P.C. By contending so, he sought for pre-arrest bail for the applicant on point of further enquiry and malafide. In support of his contention he

has relied upon case of *Muhammad Akram vs the State & others (2014 SCMR 1369)*.

4. Learned A.P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by contending that the applicant had deprived the complainant of his hard earned money.

5. I have considered the above arguments and perused the record.

6. The FIR of the incident has been lodged with delay of about 03 months; such delay could not be lost sight of. Apparently there is dispute between the parties over matrimonial affairs. Even before the lodgment of FIR of the present case an application was moved by the applicant with Manager Allied Bank Latifabad, alleging therein that his cheque book has been stolen away. Be that as it may, the civil litigation between the parties over recovery of amount under cheque is going on. The investigation of the case is over. The offence alleged obviously is not falling within prohibitory clause of section 497(2) Cr.P.C. In these circumstances, the applicant is found entitled to grant of pre-arrest of bail on point of further enquiry and malafide.

7. In view of above, the interim pre-arrest bail already granted to the applicant is confirmed on same terms and conditions.

8. The instant application is disposed of accordingly.

JUDGE