

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-1078 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case.

23.11.2020.

Mr. Javed Ali Buriro, advocate for applicant.
Ms. Sobia Bhatti, A.P.G for the State.
Mr. Muhammad Hashim Laghari, advocate for
complainant.
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Irshad Ali Shah J;- It is alleged that the applicant dishonestly issued a cheque in favour of complainant Bashir Ahmed, 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 5th Additional Sessions Judge, Hyderabad has sought for the same from this court by way of instant application under Section 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 dispute with him over settlement of account; entire amount has been paid to the complainant; the cheque has been misused by the complainant; the FIR of the incident has been lodged with delay of about 03 months and offence alleged against the applicant 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 *Tariq Bashir and 5 others vs. The State (PLD 1995 SCMR-34)*.

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 huge amount. In support of their contentions they relied upon case of *Rana Abdul Khaliq vs The State (2019 SCMR 1129)*.

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 having not been explained plausibly could not be lost sight of. Apparently the parties are disputed over settlement of account relating to lease of the land. The offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C. The investigation of the case is over. In these circumstances, the applicant is found entitled to grant of pre-arrest of bail on point of further enquiry and malafide.

7. The case law which is relied upon by learned counsel for the complainant and learned A.P.G for the State is on distinguishable facts and circumstances. In that case, neither there was delay of three months in lodgment of FIR nor there was dispute between the parties over settlement of account over lease of the land.

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

9. The instant bail application is disposed of accordingly.

JUDGE

Ahmed/Pa