

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-1070 of 2020

DATE

ORDER WITH SIGNATURE OF JUDGE

For orders on office objection.
For hearing of main case.

27.11.2020.

Mr. Qambar Ali Jamali, advocate along with applicant.
Ms. Sobia Bhatti, A.P.G for the State.
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Irshad Ali Shah J;- It is alleged that the applicant with rest of culprits by making an encroachment over the house of complainant Mst. Azmat maltreated her and her witnesses and then went away by threatening her of murder, for that the present case was registered.

2. The applicant on having been refused pre arrest bail by learned IIIrd 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 learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party; the FIR of the incident has been lodged with delay of one day; the offence alleged against the applicant is not falling with prohibitory clause of section 497(2) Cr.P.C; the operation of medical certificate has been kept in abeyance by medical board; the parties being related interse are already disputed over inheritance and co-accused Mst. Zeba Kausar has already been admitted to bail by learned trial Court. 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 cases of *Mazhar Ali vs The State (2020 P.Cr.L.J 1571)* and *Abdul Ghani Lashari (2020 P.Cr.L.J Note-70)*.

4. Learned A.P.G. for the State has opposed to grant of pre arrest bail to the applicant by contending that he has actively participated in commission of incident.

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

6. The FIR of the incident has been lodged with delay of about one day; such delay having not been explained plausibly could not be overlooked. The offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C. The operation of medical certificate has been kept in abeyance by medical board. Parties are already disputed over inheritance. The case has finally been challaned. Co-accused Mst. Zeba Kausar has already been admitted to bail by learned trial Court. In that situation, a case for grant of pre-arrest bail in favour of applicant on point of malafide and further inquiry is made out.

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 bail application is disposed of accordingly.

JUDGE