

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,**  
**HYDERABAD**

Criminal Bail Application No.S-593 of 2020

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DATE

ORDER WITH SIGNATURE OF JUDGE

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1. For orders on office objections.
2. For hearing of main case.

**18.01.2021.**

Mr. Farhad Ali Abro, Advocate along with applicant.

Ms. Sobia Bhatti, A.P.G for State.

Mr. Altaf Sachal Awan, Advocate for complainant.

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**Irshad Ali Shah J.-** It is alleged that the applicant issued cheque dishonestly, it was bounced when was presented before the concerned Bank for encashment by complainant Kashif Ahmed then threatened and insulted him when complainant approached him for return of his money, for that the present case was registered

2. The applicant on having been refused pre-arrest bail by learned IVth 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 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 grudge with him; the FIR has been lodged with delay of about (16) days; offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C and the very case is proceeding. 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 *Mian Allah Ditta vs The State and others (2013 SCMR 51)*, *Mian Muhammad*

*Akram vs The State and others (2014 SCMR 1369) and Muhammad Sarfraz vs The State and others (2014 SCMR 1032).*

4. Learned Assistant Prosecutor General for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by contending that he has deprived the complainant of his money by practicing fraud. In support of their contentions they have has relied upon case of *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 (16) days; such delay having not been explained plausibly could not be overlooked. The litigation between the parties on civil side is going on. The offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C. The applicant has not misused the concession of bail and the case against him is proceeding before learned trial Court. In these circumstances, a case for grant of bail to the applicant on point of further inquiry and malafide is made out.

7. In case of *Rehmatullah Vs. The State and others (2011 SCMR 1332)*. It has been held by Hon'ble Apex Court that:

*"3. Heard. The petitioner was granted bail on 21-11-2008, which was cancelled by the learned High Court on 19-3-2009, when according to the order itself the trial was at the verge of conclusion. Learned Additional Prosecutor-General stated that now one or two witnesses are yet to be recorded. The courts should not grant or cancel bail when the trial is in progress and the proper course for the courts in such a situation would be to direct learned trial court to conclude the trial of the case within specified period."*

8. The case law which is relied upon by the learned A.P.G for the State and learned counsel for the complainant is on distinguishable

facts and circumstances. In that case the ulterior motive was found lacking. In the instant case the FIR is delayed and civil litigation between the parties is going on which constitute an act of ulterior motive on the part of complainant.

9. In view of above, the interim pre-arrest bail already granted to the applicant is confirmed on same terms and conditions with direction to learned Trial Court to disposed off very case against the applicant within one month.

10. The instant bail application is disposed of accordingly.

JUDGE

Ahmed/Pa.