

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

Criminal Bail Application No.S-1159 of 2020

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

22.01.2021.

Mr. Muhammad Sachal R. Awan, Advocate along with applicant.
Ms. Sobia Bhatti, A.P.G for State.
Mr. Samiullah Rind 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 Ghulam Hussain, for that the present case was registered

2. The applicant on having been refused pre-arrest bail by learned VIII-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 over sale of the land and the 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.

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 the applicant has deprived the complainant of his money by practicing fraud. In support of their contention they relied upon cases of *Shameel Ahmed vs The State (2009 SCMR 174)* and *Muhammad Siddique vs Imtiaz and 2 others (2002 SCMR 442)*.

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

6. The offence alleged against the applicant is not falling clause of section 497(2) Cr.P.C. The parties are said to be disputed over sale of landed property. The case has finally been challenged. The applicant has joined the trial. The applicant

has not misused the concession of bail. 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 case of *Shameel Ahmed (supra)* the accused was found to be fugitive. It was in that context he was refused bail. In the instant case, there is no absconsion on the part of the applicant. In case of *Muhammad Siddique (supra)* the accused was involved in a Zina case. In the instant case there is no allegation of Zina against the applicant.

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 dispose of very case against the applicant within one month.

10. The instant bail application is disposed of accordingly.

JUDGE

Ahmed/Pa.