

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

Criminal Bail Application No.S-08 of 2021

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

03.03.2021.

Mr. Meer Ahmed Mangrio, Advocate along with applicant.

Ms. Sana Memon, A.P.G for State.

Mr. Mumtaz Alam Laghari, advocate for complainant.

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Irshad Ali Shah J.- The facts in brief necessary for disposal of instant bail application are that the applicant being Bank officer allegedly drawn the loan against the name of Ali Muhammad who happened to be father of complainant Muhammad Irfan. On complaint, he returned the loan so drawn by him fraudulently by way of cheque, it was bounced when was presented before the concerned Bank for encashment by the complainant, for that the present case was registered

2. The applicant on having been refused pre-arrest bail by learned 1st Additional Sessions Judge, Tando Allahyar 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; the FIR has been lodged with delay of about fifteen months; a civil suit for cancellation of very cheque has already been filed 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. In support of his contention he has relied upon case of *Mian Muhammad Akram vs The State and others (2014 SCMR 1369)*.

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 by practicing fraud has deprived the complainant party of his money. In support of their contention they have relied upon case of *Rana Abdul Khaliq vs the State and others (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 fifteen months; such delay could not be overlooked. The civil suit for cancellation of very cheque is pending adjudication before the Court having jurisdiction. The offence alleged against the applicant is not falling clause of section 497(2) Cr.P.C. The case has finally been challaned. 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.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 learned A.P.G for the State and learned counsel for the complainant is on distinguishable facts and circumstances. In that case neither there was delay of fifteen months in lodgment of FIR nor a civil suit for cancellation of very cheque was pending.

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.

9. The instant bail application is disposed of accordingly.

JUDGE

Ahmed/Pa.