

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

Criminal Bail Application No.S-874 of 2021

Applicant : Imran Gul Son of Naseeruddin, through Mir Naeem Talpur, Advocate.

Respondent : The State through Ms. Rameshan Assistant Prosecutor General, Sindh.

Complainant : Mst. Shamshad Daughter of Ali Muhammad through Mr. Safdar Ali Charan, Advocate.

Date of hearing : 25.11.2021

Date of Order : 25.11.2021

O R D E R

AMJAD ALI SAHITO, J:- Through the instant bail application, the applicant/accused above named seeks his pre-arrest bail in Crime No.89 of 2021, under sections 493-A, 495, 506, 504 P.P.C, registered at P.S B-Section Dadu, after his bail plea was declined by the learned Additional Sessions Judge-I, Dadu vide order dated 30.09.2021.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused submits that in fact the incident took place in the year 2016 but the complainant remained mum for about four years and no explanation has been furnished by her for lodging of the F.I.R with such delay. He further contended that sections 493-A and 495 reveals that cohabitation caused by a man deceitfully inducing a belief of lawful marriage but no proof has been brought by the complainant on record which could suggests that after pronouncement of divorce the applicant/accused has committed zine with her. He lastly prayed for confirmation of interim pre-arrest bail.

4. On the other hand, learned counsel for the complainant vehemently opposed for grant of bail and submits that police also secured CDs as well as other documents that after pronouncement of the Tallaq the applicant/accused had committed Zina with the complainant while learned Assistant Prosecutor General, Sindh submits that CDs recording and photographs show that they are moving around otherwise no other evidence shown.

5. I have heard learned counsel for the applicant, the learned counsel for the complainant as well as Assistant Prosecutor General, Sindh and gone through the record available.

6. Perusal of record reflects that admittedly the Tallaq was announced in the year 2017 but the complainant remained mum for about last four years for reporting such incident however no explanation has been furnished by the complainant on such delay. Further the sections in which the applicant/accused are charged yet to be proved when evidence will be recorded before the learned Trial Court that whether he had committed cohabitation or not with the complainant on the ground of being her lawful husband so also only presence has been shown in CDs and photographs. Learned counsel for the applicant pleaded malafide that the complainant with ulterior motives lodged the F.I.R when she came to know that the applicant/accused has contracted second marriage on such annoyed lodged the instant F.I.R. At bail stage only tentative assessment is to be made.

7. In view of above, the case of the applicant/accused falls within the ambit of sub-section (2) of section 497 Cr.P.C, therefore, the bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicant/accused by this Court vide Order dated 04.10.2021, is hereby confirmed on the same terms and conditions. The applicant/accused is directed to attend the learned Trial Court regularly if he fails to appear the Trial Court would be at liberty to take actions against him in accordance with law.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

JUDGE

*Muhammad Danish**