

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
Cr.B.A.No.S-1060 of 2020

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

**09.12.2020.**

Mr. Raja Jawad Ali Sahar, advocate along with applicant.  
Mr. Shahid Ahmed Shaikh, D.P.G for State.  
Mr. Irfan Ahmed Qureshi, advocate for complainant.  
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**Irshad Ali Shah J:-** It is alleged that the applicant by way of fraud and cheating deprived the complainant of her Car, for that the present case was registered.

2. The applicant on having been refused pre arrest bail by learned 5<sup>th</sup> 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 in order to satisfy her matrimonial dispute with him; the FIR has been lodged with delay of about 03 months; the offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C and very case on investigation was recommended to be cancelled by police under "C-class". By contending so, he sought for pre-arrest bail for the applicant on point of further enquiry and malafide.

4. Learned A.P.G. 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 widow of his only source of income by way of criminal breach of trust. In support of their contentions they have relied upon case of *Rai Chand vs The State* (2019 P.Cr.L.J Note 111).

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

6. The FIR of the incident has been lodged with delay of about three months; such delay having not been explained plausibly could not be overlooked. The parties are already disputed over matrimonial affairs. The offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C and very case on investigation was recommended by the police to be cancelled under "C-class". In these circumstances, a case for grant of bail to the applicant on point of further inquiry and malafide obviously is made out.

7. 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, an order of an Hon'ble Judge of High Court was managed with his false signature, which is not the case in hand.

8. In view of above, the interim pre-arrest bail already granted to the applicant is confirmed on same terms and conditions.

9. The instant bail application is disposed of accordingly.

JUDGE