

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

Criminal Bail Application No.S-1117 of 2020

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

**11.01.2021.**

Mr. Altaf Sachal Awan, Advocate for the applicant.  
Ms. Sobia Bhatti, A.P.G for State.  
Mian Taj Muhammad Keerio, 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 Aftab Ahmed Khan, 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 settlement of account; the FIR has been lodged with delay of about 13 days and 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 he has deprived the complainant of his money by practicing fraud and cheating and he is a habitual offender.

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

6. The FIR of the incident has been lodged with delay of about thirteen (13) days; such delay having not been explained plausibly could not be overlooked. The offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C. The case against the applicant has finally been challaned and he has joined the Trial. Nothing has been brought on record which may suggest that the applicant is a habitual offender. In these circumstances, a case for grant of bail to the applicant on point of further inquiry and malafide is made out.

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

8. The instant bail application is disposed of accordingly.

JUDGE

Muhammad Danish Steno\*

It is alleged that the applicant issued a cheque worth rupees Four Lacs in favour of complainant Khalid Hussain, it was bounced by the concerned Bank, when it was presented there for encashment, for that the present case was registered.

2. The applicant, on having been refused pre-arrest bail by learned Additional Sessions Judge, Ratodero, has sought for the same from this Court by way of instant bail 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 his dispute with him over purchase of house; the FIR has been lodged with delay of more than one year; co-accused Nadeem has been let off by the police and the offence alleged against the applicant is not falling within the prohibitory clause of 497 Cr.PC. By contending so, he sought for pre-arrest bail for the applicant on point of further inquiry and malafide.

4. Learned DPG for the State has recorded no objection to grant of pre-arrest bail to the applicant.

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

6. Admittedly, the parties are disputed over the sale and purchase of the house. The FIR of the incident has been lodged with delay of more than one year. Co-accused Nadeem has been let off by the police and the offence alleged against the applicant is not falling within the prohibitory clause of section 497 Cr.PC. In that situation, a case of grant of pre-arrest

bail in favour of the applicant on point of further inquiry and malafide is made out.

7. In case of *Tariq Bashir and 5 others vs. The State (PLD 1995 SCMR-34)*, it has been held by Hon'ble Apex Court that;-

*“—Ss.496 & 497---Bail---Grant of bail in bailable offence is right while in non-bailable offences the grant of bail is not a right but concession/grace--- Grant of bail in offences punishable with imprisonment for less than 10 years is a rule and refusal an exception.”*

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

9. The instant bail application is disposed of accordingly.