

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Cr. Bail Appln. No. S – 155 of 2021**

Date	Order with signature of Judge
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**For hearing of bail application**

**26.04.2021**

Mr. Abdul Mujeeb Shaikh Advocate a/w Applicant  
Mr. Achar Khan Gabol Advocate for the Complainant  
Mr. Khalil Ahmed Metlo, DPG for the State

**ORDER**

**Aftab Ahmed Gorar, J:-** Through instant Criminal Bail Application, the applicant/accused *Nisar Ahmed S/o Muhammad Panah Mehtam*, seeks pre-arrest bail in Crime No.02 of 2021 registered at Police Station Mubarakpur, District Sukkur, for offences punishable under Sections 147, 148, 506/2, 504, 496-A, 376, 344 PPC.

2. The facts of the prosecution case, in brief are that on 13.02.2021 complainant Mst. Sanam Latif lodged her FIR at police Station, Mubarakpur, District Sukkur, alleging therein that her father during his lifetime had given her hand to Abdul Latif, whereas, after the death of his father, she being *sui juris* at her own will and wish contracted marriage with Abdul Latif, which antagonized her mother, brothers and other relatives. It is alleged that her husband filed a case at Sessions Court, Hyderabad for protection, as soon as she along with her husband came out of the Court, her mother Mst. Amna, brother Khalil Ahmed, Ali Murad, Jan Muhammad, Javed Ali,

Sheroo, Gulsher, Faiz Muhammad, Ali Madad, Mst. Sodhi, Muhammad Panah, Mst. Panahi entreated her on Holy Quran that they would arrange her respectful *Rukhsati* with Abdul Latif as per the traditions, but thereafter they backed-out from their commitment. It is alleged that on 26.01.2021, when Abdul Latif along with his father and other family members arrived at the house of her parents, they were issued threats of dire-consequences and ousted from house, whereas, the accused persons also maltreated her (complainant), accused Ali Madad on the force of weapons shifted her to some unknown place and after administering some intoxicants to her contracted her nikah with Nisar Ahmed Mahtan and obtained her RTI on nikahnama, whereas, nikah was recited by Moulvi Muhammad Soomar Soomro against an amount of Rs.5000.00, after regaining her senses, she found her in katcha area at an unknown place. It is alleged that accused Nisar Ahmed, Mst. Panahi and unknown persons along with Ali Madad threatened her for murder, in case she refuses to accept the nikah of Nisar Ahmed and then she was brought at City and after getting a chance she joined her husband Abdul Latif and filed such petition for protection at High Court of Sindh Karachi and then approached the Court of Additional Sessions Judge Pano Akil and after getting order for registration of FIR, she appeared at Police Station and such FIR was registered, as stated above.

3. The applicant/accused on having been refused pre-arrest bail by the Court of learned 2nd Additional Sessions Judge / Gender

Based Violence Court, Sukkur vide order dated 26.02.2021, hence he has sought the same from this Court by filing the instant Criminal Bail Application.

4. It is contended by learned counsel for the applicant/accused that there is delay of 08 months in lodgment of the FIR for which no plausible explanation has been furnished; that there is dispute over the landed property in between the applicant/accused and the complainant, whereas, no such *nikahnama* is produced by the complainant; that the applicant/accused has challenged the medical report through DNA which is awaited; that the story is unbelievable that how a mother can allow a person to commit *zina* with her real daughter, therefore, the contents of FIR are false; that the applicant/accused and the complainant are cousins to each other; that there is *malafide* on the part of the complainant to involve and drag the present applicant/accused in a false case. He lastly contended that the applicant/accused has made-out a case for grant of pre-arrest bail on the point of further enquiry.

5. Learned counsel for the complainant opposed for grant of pre-arrest bail to the applicant/accused by contending that the specific role has been attributed to the applicant/accused in the commission of the offence that he has forcibly contracted nikah with the complainant after intoxicating her at some unknown place and her RTI has been obtained on the *nikahnama* in fainted condition; that there is no such dispute over the property nor the applicant/accused has placed on record any document showing such

litigation; that infact the complainant has contracted marriage with Abdul Latif on which the entire family of the complainant was unhappy and her brother is Assistant Commissioner at Hyderabad, first they detained her at Hyderabad and her husband Abdul Latif filed an application u/s 491 Cr.P.C before the Court of learned Sessions Judge, Hyderabad and the complainant was recovered, her statement was recorded on 23.01.2019 by the Court of learned IV-Additional Sessions Judge, Hyderabad, thereafter she again joined her parents, whereas by administering some intoxicants, her second *nikah* over *nikah* with the present applicant/accused was performed, hence the applicant/accused has deliberately and knowingly committed the offence and does not deserve any concession of pre-arrest bail.

6. Learned Deputy PG appearing for the State recorded no objection for confirmation of the interim pre-arrest bail to the applicant/accused by contending that admittedly there is delay of 08 (eight) months in lodgment of the FIR for which no plausible explanation has been furnished by the complainant.

7. I have heard the learned counsel for the applicant/accused, learned counsel for the complainant as well as Deputy PG for the State and perused the record. The FIR of the incident has been lodged with delay of about 08 (Eight) months and such delay having not been explained plausibly by the complainant could not be ruled-out, which appears to be significant. As per FIR, the allegation against applicant/accused is that he has contracted *nikah* over *nikah*

with complainant Mst. Sanam by administering her some intoxicants and in fainted condition her RTI was obtained on the *nikahnama*. The complainant has further stated that her nikah was recited by Moulvi Muhammad Soomar and she has given the names of the witnesses of the nikah. Allegedly the complainant was not in senses then how, she came to know that her *nikah* was recited by Moulvi Muhammad Soomar and she also has given the names of the witnesses of the *nikah*, which makes the case against the applicant/accused one of further enquiry as envisaged under Sub-Section (2) of Section 497 Cr.P.C. In these circumstances, the applicant/accused is found entitled for grant of pre-arrest bail on the point of further inquiry. Consequently, the interim pre-arrest bail earlier granted to the applicant/accused vide dated 08.03.2021 is hereby confirmed on same terms and conditions. The applicant/accused is directed to regularly attend the trial Court till final disposal of the case. The observations made herein above are tentative in nature and will not prejudice the case of either party at the trial.

8. The instant bail application is disposed of accordingly.

Judge