

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

Criminal Bail Application No.S-386 of 2019

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
-------------	--------------------------------------

Bail Before Arrest

For hearing of main case

**30.08.2019.**

Mian Taj Muhammad Keerio, Advocate for applicant along  
with applicant.

Ms. Rameshan Oad, A.P.G.

-.-.

Applicant is seeking pre-arrest bail in Crime No.14/2019, under section 365-B, 363, 34 PPC registered at P.S Balu Ja Quba, Shaheed Benazirabad on 15.02.019.

2. In the F.I.R. complainant has alleged abduction of his three daughters by four accused nominated therein for the purpose of committing zina with them. The name of the applicant is not mentioned in the F.I.R. Subsequently in the investigation a raid was conducted in the house of co-accused Allah Rakhio from where the abductees were recovered and were produced before the Judicial Magistrate concerned where their 164, Cr.P.C statements were recorded in which they have implicated the applicant that they were abducted in his car and were confined in his house where he used to administer them sedative injections, torture them, and commit zina with them. That he also used to issue threats to them and finally he handed over their custody to the people of Deenari community from where they were recovered .

3. Learned Counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in this case by the complainant; that his name is not mentioned in the F.I.R.; that in 161, Cr.P.C statements the abductees, have accepted the factum of their marriage with co-accused but when the custody of abductees was shifted from their husband to their parents they changed their version and implicated the applicant and their husband in the commission of offence. According to him, this fact would make the case against the applicant to be one of further inquiry. He has further contended that the father of abductees had filed a Criminal Miscellaneous Application for quashment of F.I.R. bearing Crime No.17/2019 registered at P.S Balu Ja Quba u/s 364 PPC, which was registered by the husband of the abductees namely Allah Rakhio against

abduction of his wife by the police and the complainant party. And in support of such application the abductees had submitted their affidavits but have not alleged commission of rape with them by the applicant; that there is delay of six days in registration of F.I.R., which makes the case one of further enquiry. Learned counsel in support of his arguments has relied upon the case law reported as 2017 M L D 1405, 2017 P.Cr.L.J Note 97, 2013 P.Cr.L.J 1424, 2014 SCMR 1355.

4. On the other hand, learned Assistant Prosecutor General Sindh has opposed grant of bail to the applicant and has submitted that there is no mala fide on the part of complainant to implicate the applicant; that the abductees have implicated the applicant specifically, as such, he is not entitled to the grant of extra ordinary concession of pre-arrest bail.

5. I have considered submissions of parties and perused material available on record including case law cited at the bar. Applicant's name is not mentioned in the F.I.R. as such, the delay in lodging the same is of no consequences for him. He was implicated in the case only after the abductees were recovered and were produced before the learned Judicial Magistrate concerned where their 164, Cr.P.C statements were recorded in which they have specifically nominated him in serious allegations of confining them at his house, administering them sedative injections, torturing them, issuing them threats and even committing zina with them. In presence of such prima facie evidence, I am of the view that the applicant is not entitled to the extraordinary relief of pre-arrest bail which can only be extended to an accused who is able to establish that he has been implicated on trumped up charges or that the complainant has ill will or ulterior motive to falsely implicate him.

6. It may be mentioned that the F.I.R. bearing Crime No.17 of 2019 registered by co-accused Allah Rakhio against complainant party alleging abduction of his wife / abductee at the hands of police and complainant party has been disposed of in "C" class. Therefore, registration of such case would not reflect adversely on prosecution story which has been supported by the abductees in their 164, Cr.P.C statements. The case laws relied upon by the Counsel for the applicant are quite distinguishable on facts. In view of above, this bail application is dismissed and order dated 15.04.2019, whereby the applicant was admitted to ad-interim pre-arrest bail is hereby recalled. The observations hereinabove are, however, tentative in nature and shall not prejudice case of either party before the trial court.

JUDGE