

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Crl. Bail Appln. No.S-248 of 2021
Crl. Bail Appln. No.S-318 of 2021
Crl. Bail Appln. No.S-247 of 2021

Date	Order with signature of Hon'ble Judge
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Mr. Ahsan Ahmed Qureshi, advocate for the applicants in Cr. Bail Appln. No.S-247 & 248 of 2021, along with applicant Naveed Brohi.

Mr. Mohammad Afzal Jagirani, advocate for the applicant in Cr. Bail Appln. No.S-318 of 2021.

Mr. Ahmed Bux Abro, advocate for the complainant.

Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Date of Hearing : 20.09.2021.

Date of decision : 20.09.2021.

ORDER

Omar Sial, J.- Farhan Ali Korkani and Khalid Brohi have sought post arrest bail in crime number 102 of 2020 registered under sections 365-B and 452, P.P.C. at the Waleed police station. Naveed Brohi has sought pre-arrest bail in the same crime. Earlier, their applications seeking bail were dismissed by the learned 4th Additional Sessions Judge, Larkana on 7-5-2020 and 26-5-2020.

2. Sher Mohammad lodged the aforementioned F.I.R. on 18-10-2020 reporting an incident that had occurred the previous day i.e. on 17-10-2020. He narrated that he along with his brother Muhammad, cousin Allah Bux and daughter Zahida were sitting talking in their home when at 12.00 noon 2 persons entered the house. One of the intruders was identified as applicant Farhan. Both the intruders took out pistols and took Zahida with them in a waiting car outside.

3. I have heard the learned counsels for the applicants as well as the complainant and the learned Additional Prosecutor General. My observations and findings are as follows.

4. The incident allegedly occurred on 17-10-2020. Zahida under circumstances which are shrouded in mystery seems to have returned on

her own and recorded a section 161, Cr.P.C. statement on 17-4-2020. In her statement, she recorded that she had returned home on 17-3-2021 i.e. 5 months after the alleged abduction. It appears that she also recorded a section 164, Cr.P.C. statement on 10-6-2021 in which she said that she had returned on 27-3-2021. The contradiction as to when she returned is quite obvious. Upon a query from the complainant as to what steps did he take to locate Zahida in the 5 month period that she was reportedly missing, he could not provide even one satisfactory reason which would reflect the concern of a father whose daughter had gone missing. He could also not provide any reason as to why it took another one month after Zahida had returned before she recorded her section 161, Cr.P.C. statement. No explanation could also be provided as to why there seemed a necessity to record a section 164, Cr.P.C. statement 2 months later. Prima facie there is doubt as to whether even Zahida has freely recorded her statements or whether the same have been taken under duress. The case requires further inquiry.

5. While it is claimed that the girl returned on her own, the details of how she managed to do that are shrouded in mystery. There is no witness connected with the return. The 2 witnesses are both the father and uncle of the girl. It is true that generally people are reluctant to act as witnesses, however, in the circumstances of the present case i.e. a house in a rural area which is relatively populated and a girl being taken in the manner alleged at 12 in the afternoon; *prima facie* it seems unnatural that no other person from the immediate locality volunteered to record his statement as to what he saw. There appears to be much more to this case than what is reflected in the F.I.R. and witness statements. The girl having eloped, as argued by the counsel, with her own freewill cannot also be conclusively ruled out at this preliminary stage. Similarly, *malafide* on the part of a disgruntled father in registering the case cannot also be ruled out at this stage.

6. In view of the above, the case against the applicants is one of further inquiry and above are the reasons for the short order of earlier today.


JUDGE