

**ORDER SHEET**  
IN THE HIGH COURT OF SINDH, AT KARACHI.  
**Criminal Bail Application No. 1697 of 2016**

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Date \_\_\_\_\_ Order with Signature of Judge \_\_\_\_\_.

For hearing of bail application.

11.01.2017.

Mr. Muhammad Saleh Kolachi, Advocate for applicant.  
Mr. Zahoor Shah, APG.

Through instant Criminal Bail Application, applicant/accused Naveed s/o. Nazeer Ahmed seeks post arrest bail in Crime No. 442 of 2016 registered at PS Gulistan-e-Jauhar, under Section 365-B/34 P.P.C. His earlier bail applications bearing No. 2502 and 2586 of 2016 were dismissed by the learned Additional Sessions Judge No. VIII, Karachi East, vide orders dated 18.11.2016 and 22.11.2016, respectively.

2. Briefly stated, the facts of the case are that on 01.09.2016 complainant Nazim Hussain lodged the aforementioned F.I.R. stating therein that on 01.09.2016 he went to his work and at about 1300 hours he received a call from his wife disclosing that his daughter, namely, Irshad Bibi has been kidnapped. When he came back, his wife informed that she had gone to a doctor when at about 3.00 p.m. Naveed s/o. Nazeer Ahmed and Nazeer Ahmed came and enticed and abducted away her said daughter.

3. The learned counsel for the applicant/accused has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that as per medico-legal report no sexual attempt has been made and as per statement of the alleged abductee recorded under Section 161 Cr.P.C. she was brought to Karachi on 21.09.2016 by Ashraf Punjabi and Nawaz from Tando Allahyar and they returned her to her parents, hence it is a fit case of further enquiry; that co-accused Nazeer Ahmed has already been granted bail by the learned Additional Sessions Judge No. X, Karachi East; hence the

present applicant/accused is also entitled for the concession of bail on the rule of consistency. Lastly he has contended that the complainant has filed No Objection Certificate for the grant of bail to the applicant/accused; therefore, the applicant/accused is entitled to the concession of bail. In support of his contentions, learned counsel for the applicant/accused has placed reliance upon the cases of *Kashif Raza vs. The State* (2012 S.L.J. 1040), *Aamir vs. The State and another* (2010 P.Cr.L.J. 961), *Muhammad Javed Iqbal vs. The State and another* (2010 YLR 1035), *Master Muhammad Ashiq vs. The State* (2007 P.Cr.L.J. 1802) and *Zeeshan Ali Butt vs. The State* (2009 MLD 171).

4. On the other hand, learned APG has opposed this application on the ground that the alleged abductee baby Irshad is aged about 13 years and she has fully connected the applicant/accused with the commission of the offence in her statement recorded under Section 164 Cr.P.C. by the Judicial Magistrate; as such, from the tentative assessment of the evidence available with the prosecution the applicant/accused is prima-facie involved in the commission of alleged offence and since no case of further enquiry has been made out; the applicant is not entitled for the concession of bail.

5. Heard the learned counsel for the applicant/accused as well as learned APG for the State and perused the material available on record.

6. It appears from the perusal of record that the F.I.R. of the incident has been lodged by the complainant promptly. The alleged offence is punishable with imprisonment for life. Minor Baby Irshad, the alleged abductee, has given full account of the incident in terms of detention area and role of the applicant/accused. There appears no reason for false implication of the applicant/accused in the case. The role assigned to co-accuse Nazeer Ahmed, who has been admitted to bail, is different than the role assigned to present applicant/accused; hence the applicant/accused cannot claim bail on

the rule of consistency. The case-law cited by the counsel for the applicant/accused is distinguishable so far the facts of the case in hand are concerned. From the tentative assessment of the evidence available with the prosecution, the case of applicant does not call for further enquiry as envisaged under sub-section (2) of Section 497 Cr. P.C. I, therefore, dismiss this Criminal Bail Application, with direction to trial Court to expedite the trial and conclude it preferably within a period of three months.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits.

JUDGE

Athar Zai