

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

CrI. Bail Appln: No.S-162 of 2018.

Paru and others. Applicants.

Versus.

The State. Respondents.

Mr. Muhammad Sachal R. Awan, Advocate for the Applicants.

Ms. Ramishan Oad, APG.

Mr. Omparkash H. Karmani, Advocate for the complainant.

Date of hearing and order 20.06.2018.

O R D E R

IRSHAD ALI SHAH, J. It is alleged that the applicants with rest of the culprit by committing trespass into the house of complainant Bharmal, abducted his daughter Shr: Pari, young girl of 17-18 years, for that the present case was registered.

2. On having been refused post-arrest bail by the learned trial Court, the applicants have sought for the same from this Court by making the instant bail application under section 497 Cr.P.C.

3. It is contended by the learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant, there is delay of 09 hours in lodging of FIR, Shr: Pari has married of her own accord with co-accused Bakht alias Baksho after swearing free will affidavit, there is general allegation of the incident against the applicants, the complainant and his witnesses are related inter se. By contending so, he sought for release of the applicants on bail, as according to him, their case is calling for further inquiry. In

support of his contention, he relied upon the cases of **Rana Muhammad Javed Iqbal v. The State and another (2018 YLR 207)**.

4. It is contended by the learned counsel for the complainant that the applicants are neither innocent nor have been involved in this case falsely by the complainant, they have abducted an innocent girl and then arranged for her false free will affidavit to hide their crime. By contending so, he sought for dismissal of the instant application. In support of his contention, he relied upon the cases of **Noor Hassan v. Abdullah and 4 others (2016 PCr.LJ 166)** and (2) **Abdul Karim alias Adoo v. The State (2012 MLD 1128)**.

5. Learned APG has supported the impugned order.

6. I have heard learned counsel for the parties and perused the record.

7. The names of the applicants are appearing in the FIR with specific allegation that they with rest of the culprit being armed with hatchets and lathis by committing trespass into house of the complainant Bharmal, abducted his daughter Shr: Pari. In that situation, it would be premature to say that present applicants being innocent have been involved in this case falsely. Shr: Pari on recovery, during course of her examination under section 161 / 164 Cr.P.C. has implicated the applicants to the extent that they by committing trespass into her house (father's house) have forcibly abducted her. In that situation, her free will statement, if any, hardly carries any weight. It is true that there is delay of about 09 hours in lodging of FIR, but same appearing to be natural. The delay in lodging FIR even otherwise, could

not be resolved in favour of the applicants by this Court at this stage. It is the case of abduction, which entail joint liability. The complainant and his witnesses may be related inter se, but their relationship is not enough to disbelieve them at this stage. The deeper appreciation of facts and circumstances even otherwise is not permissible at bail stage. They are appearing to be natural witness to the incident. There appear reasonable grounds to believe that the applicants are guilty of the offence for which they have been charged.

8. The case law, which is relied upon by leaned counsel for the applicants is on distinguishable facts and circumstances. In that case the main reason for admitting the accused to bail was that he was discharged by police finding him to be innocent. In the instant case, the applicants have not been found to be innocent by the police.

9. In view of above while relying upon the case law, which is referred by the learned counsel for the complainant, it could be concluded safely that the applicants are not found entitled to be released on bail.

10. Instant application is dismissed accordingly.

J U D G E

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