

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-900 of 2021
Criminal Bail Application No.S-943 of 2021

Applicants : 1) Munawar Hussain Son of Muhammad Sadiq in
Criminal Bail Application No.S-900 of 2021

2) Shahid Ali Son of Muhammad Alam Jat and Lall
Mir Son of Muhammad Ali, through Mr. Ali Hassan
Chandio, Advocate.

Respondent : The State through Mr. Nazar Muhammad Memon,
Additional Prosecutor General, Sindh.

Complainant : Muhammad Arshad through Mr. Afzal Karim Virk,
Advocate.

Date of hearing : **18.11.2021**

Date of Order : **18.11.2021**

O R D E R

AMJAD ALI SAHITO, J:- Through this common order I intend to decide both the captioned bail applications one for pre-arrest bail moved by applicant Munawar Hussain and the second is for post arrest bail of applicants Shahid Ali and Lall Mir as the same are outcome of one incident and F.I.R bearing No.70 of 2021, under sections 452, 365-B, 376, 371, 34 P.P.C, registered at P.S Tando Jan Muhammad, after their bail plea was declined by the learned Additional Sessions Judge-II/GBV Court Mirpurkhas vide order dated 01.10.2021.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Per learned counsel the applicants are innocent and they have falsely been implicated in this case; that F.I.R is delayed by six days and plausible explanation has been furnished by the complainant; that there is contradiction between the complainant and in the statement of abductee Mst. Asia; that applicants/accused Shahid and Lall Mir are in jail and they are no required for further investigation. He further contended that the complainant with malafide intention and ulterior motives has lodged the F.I.R against the accused persons. He lastly prayed for confirmation as well as grant of bail. In support of his contentions, he relied upon the cases of ***HAZRAT AMIN Vs. The STATE and another [2020 SCMR 418]***, ***MUHAMMAD TANVIR Vs. The STAE and others [2017***

SCMR 366], and *MUHAMMAD BILAL and another Vs. The STATE [2018 P Cr. L J Note 86]*.

4. On the other hand, learned counsel for the complainant as well as learned Additional Prosecutor General, Sindh vehemently opposed the confirmation as well as grant of bail on the ground that after recovery of the victim she was produced before the Magistrate before him she has clearly stated that applicants forcibly abducted her and particularly applicant Lall Mir committed Zina with her, as such, sufficient material is available against them, therefore, they are not entitled for concession of bail.

5. I have heard learned counsel for the applicants and learned counsel for complainant as well as Additional Prosecutor General, Sindh and gone through the material available on record.

6. No doubt the names of the applicants are appearing in the F.I.R with specific role that they all with common object and intention abducted Mst. Asia. The applicant Lall Mir committed Zina with her she after her recovery was produced before learned Magistrate who recorded her statement under section 164 Cr.P.C wherein she denied that she had contracted marriage with aforesaid applicant Lall Mir however she has clearly stated that all applicants abducted her and applicant Lall Mir committed Zina with her, as such, sufficient material is available against them. Learned counsel for the applicants failed to point out any ill-will, enmity or malafide ulterior motives on the part of the complainant or IO of the case to falsely implicate the applicants in the present case.

7. In the case of *Hazrat Amin supra* relied by learned counsel for the applicants the bail was granted as there was no direct evidence available but in the present case direct evidence in shape of the statement of abductee Mst. Asia is existing. In another case *Muhammad Tanveer supra* it was held that the F.I.R was lodged with delay of three days but in the instant case the complainant has properly explained the delay as he first approached to the Nekmards for recovery of alleged abductee Mst. Asia but failed then he lodged the F.I.R and lastly in cited case of *Muhammad Bilal and another supra* it was held that the abductee admitted Nikkah with co-accused but the in the present case she unequivocally denied her marriage with applicant Lall Mir. Resultantly both bail applications are dismissed. Interim pre-arrest bail granted to applicant Munawar Hussain vide order dated 08.10.2021 is hereby recalled.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

*Muhammad Danish**

JUDGE