

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

Cr. Bail Appl. No.S-153 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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12.05.2022.

Mr. Mazhar Ali Leghari, Advocate for applicants.
Ms. Rameshan Oad, A.P.G for State.

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ZULFIQAR AHMED KHAN, J: Through instant bail application, the applicants / accused Kareem Dad @ Porho, Abdul Kareem and Shahid, all by caste Tangri, seek post arrest bail in Crime No.102 of 2021, registered at Police Station Naukot District Mirpurkhas for offence under Sections 365-B, 364, 451-B, 506(ii), 34 PPC. Earlier on approach their bail application was declined by learned Sessions Judge, Mirpurkhas vide order dated 26.01.2022.

2. The allegation against the present applicants as per FIR is that on 07.12.2021 at about 2300 hours they alongwith co-accused Mukhtiar and Ghulam Rasool emerged in a car and motorcycle, duly armed with deadly weapons entered into the house of complainant and forcibly abducted the wife of complainant namely Mst. Khani alongwith her minor son and daughter aged about 06 years and 04 years respectively and then ran away in the said car and motorcycle.

3. Learned counsel for the applicants has mainly contended that the applicants are innocent and have falsely been implicated in the case in hand; that the FIR is delayed by 06 days without any plausible explanation; that the victim was divorced by her first husband and then she contracted freewill marriage with co-accused Mukhtiar on 29.11.2021 and thereafter, they approached this court for protection by filing C.P.No.D-777/2021; that there is no eye witness of the incident except the complainant; that there is also delay in recording 161 and 164 Cr.P.C statements of the victim lady. In support of his contentions learned counsel has placed reliance on the case law reported as Aabid v. The

State and others (2012 SCMR 647), Kashif v. The State and another (2021 MLD 493), Muhammad Siddiq v. The State and another (2012 MLD 1530), Rana Muhammad Javed Iqbal v. The State and another (2018 YLR 207), Ghulam Hyder and 3 others v. The State (2011 YLR 2446) and Malikuddin v. The State (2017 YLR Note 363).

4. On the other hand learned A.P.G appearing for the State vehemently opposed the bail application on the ground that names of the applicants / accused are mentioned in FIR with specific role; that delay in lodgment of FIR has been fully explained by the complainant as he was kept on false hopes for return of his wife; that the main accused Mukhtiar is still absconder; that victim lady has fully implicated the applicants / accused in the commission of offence hence they are not entitled for any relief.

5. I have heard the learned counsel for the applicants, learned A.P.G for the State and have gone through the material available on record with their assistance.

6. A bare reading of the FIR reflects that present applicants / accused are nominated in FIR with specific role that they on the point of force restrained the complainant not to come near and issued threats of dire consequences and then in furtherance of their common object, abducted / kidnapped the wife of complainant by dragging her in car alongwith her two minor children. Apparently, the matter involves family honour hence delay in such like cases normally occurs. Furthermore, the victim has fully implicated all the accused persons in the commission of offence in her 161 and 164 Cr.P.C statements. The trial court has rightly discarded the affidavit of freewill, contracting marriage with co-accused Mukhtiar (still absconder) and filing of petition before this court in the light of 164 Cr.P.C statement of the abductee. Furthermore, the version of complainant and abductee is supported by other witnesses / Nekkards namely Ghulam Akbar and Wali Muhammad. Per learned A.P.G, the DNA report is still not

received hence at this state I do not find the applicants to be entitled for concession of bail.

7. A tentative assessment of the material placed before the court demonstrates the existence of some tangible evidence and reasonable grounds have been shown linking the applicants with the commission of offence which carries capital punishment and not falling within the prohibitory clause of Section 497 Cr.P.C. It is also gleaned that the prosecution has expressed cogent reasons indicating the applicants' involvement in the alleged offence and the arguments articulated by the applicants' counsel did not qualify the present facts and circumstances to fall within the ambit of further inquiry. It is also worth pointing that a family unit is protected by the Constitution of this country and any forced infringement in that unit is highly deplorable act, least to say.

8. In the view of above, it is the assessment of this Court that the learned counsel for the applicants has been unable to set forth a fit case for grant of post-arrest bail, hence, the present bail application is hereby dismissed.

9. It is considered pertinent to record that the observations hereinabove are of tentative nature and shall not influence and / or prejudice the case of either party at trial.

JUDGE

Tufail