

ORDER SHEET
 IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
 Cr. Bail. Appln. No. S – 57 of 2021

For hearing of bail application

1. For orders on office objection at flag 'A'
2. For hearing of main case

22.02.2021

Mr. Shamsuddin N.Kobhar Advocate for the Applicant/accused
 Mr. Shafi Muhammad Mahar, DPG for the State a/w
 complainant Muhammad Ramzan

>>>>>>...<<<<<<<<

Aftab Ahmed Gorar, J:- Through instant Criminal Bail Application, the applicant/accused Zahid Hussain alias Gullan S/o Abdul Rehman Gumb, seeks post-arrest bail in Crime No. 80 of 2020 registered at Police Station, Ubauro, District Ghotki for offence punishable under Sections 365-B PPC.

2. The facts of the prosecution case, briefly stated are that on 04.07.2020 at 2100 hours, complainant Muhammad Ramzan Gumb lodged the FIR at Police Station Ubauro, stating therein that his son Muhammad Adnan was got married with Mst. Fiza daughter of Sadique Hussain Gumb and on the date of incident he along with his son Muhammad Adnan and other inmates were available in the house, when at about 1415 hours three persons intruded into his house, they were identified to be Zahid Hussain alias Gullan and Manzoor Ahmed having pistols while third one was Abdul Rehman

alias Haji empty handed, they overpowered them and all the accused persons dragged Mst. Fiza out of the house, on her cries, Sadique Hussain Gumb also arrived there and saw the accused persons. Thereafter, the accused persons put Mst. Fiza in a white colour Car and escaped-away, hence the complainant went to police station and lodged the FIR.

3. The applicant/accused on having been refused post-arrest bail by the Court of learned 1st Additional Sessions Judge, Ubauro is seeking the same from this Court by way of instant bail application.

4. It is contended by learned counsel for the applicant that applicant being innocent has been involved in this case falsely by the complainant party; that there was delay of six (06) hours in lodgment of the FIR for which no plausible explanation has been furnished by the complainant; that there is previous enmity between the applicant/accused and the present complainant over the matter of karp, as the applicant/accused has approached the Court of Sessions Judge / Ex-Officio Justice of Peace Ghotki seeking protection against the harassment being caused by the police officials at the behest of present complainant and others; that the statement u/s 164 Cr.P.C of alleged abductee Mst. Fiza has been recorded before the 1st Civil Judge and Judicial Magistrate, Ubauro is in conflict with the version as setout in the FIR by the complainant; that there is no allegation of

either robbery or committing zina upon the abductee; that the co-accused Manzoor Ahmed has been granted post-arrest bail by learned Additional Sessions Judge (MCTC), Ubauro vide order dated 27.07.2020 and the case of the present applicant is on same footings; that the case has been challaned and the applicant is behind the bars, hence he is no more required for further inquiry. Leaned counsel lastly contended that the guilt of the applicant requires further inquiry, hence he may be admitted to bail.

5. Learned Deputy Prosecutor General for the State has opposed for grant of bail to the applicant/accused by contending that the applicant/accused is nominated in the FIR with active role; that the abductee Mst. Fiza has also implicated the applicant/accused in her 164 Cr.P.C statement by stating that the applicant was compelling her for marriage.

6. I have heard the learned counsel for the applicant/accused and learned Deputy PG for the State and perused the record. The applicant/accused along with co-accused Manzoor Ahmed and Abdul Rehman alias Haji are nominated in the FIR. Infact, this is a case of two version as in the FIR the complainant has specifically nominated the present applicant/accused with the alleged offence of abduction of victim, whereas, on the other hand, the alleged abductee Mst. Fiza in her statement under section 164, Cr.P.C recorded by learned 1st

Civil Judge and Judicial Magistrate, Ubauro has refuted the version of the complainant as set out in the FIR. Learned counsel for the applicant/accused has also placed on record Photostat of certified copy of order dated 03.10.2019 passed by learned Incharge Sessions Judge / Ex-Officio Justice of Peace, Ghotki on the Criminal Miscellaneous Application No.1808/2019 filed by the present applicant/accused seeking direction against the official respondents for causing undue harassment to him at the behest of private respondents, who have leveled the false allegation of *karap* against the applicant/accused. In such a situation, the applicant/accused has made-out a case of further inquiry. The case has been challaned and the applicant/accused is no more required for further investigation. In these circumstances, the learned counsel for the applicant/accused has rightly contended that the applicant/accused is entitled to grant of bail on point of further enquiry.

6. In view of above, the instant bail application is allowed, the applicant is admitted to post-arrest bail subject to his furnishing surety in sum of ***Rs.100000/- (One lac)*** and PR bond in the like amount to the satisfaction of learned trial Court. The observations made herein above are tentative in nature and will prejudice the case of either party at trial.

Judge