

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No.S – 71 of 2020

Date	Order with signature of Judge
Applicant:	Atiq Rehman son of Zulfiquar by caste Depar, Resident of village Qaismabad, Taluka Kandiaro, District Naushahro Feroze, through Mr. Ghulam Mujtaba Sahito, Advocate
Respondent :	The State through Mr. Shafi Muhammad Mahar, Deputy Prosecutor General
Date of hearing.	30-03-2020.
Date of decision.	30-03-2020.

ORDER

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AMJAD Ali SAHITO, J.- Through the instant application, the applicant/accused Atiq Rehman Depar seeks post-arrest bail in Crime No. 51/2019, offence under Section 376 PPC registered at police station Kandiaro, District Naushahro Feroze. Prior to this, the applicant/accused filed post-arrest bail application before learned III-Additional Sessions Judge, Naushahro Feroze, which was dismissed vide order dated 30.05.2019 and again the bail application was repeated before the said Court on fresh ground but the same was also dismissed vide order dated 08.07.2019, hence this post-arrest bail application.

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. Learned counsel for the applicant/accused mainly contended that applicant/accused is innocent and has falsely been implicated in this case; that firstly the bail application of applicant/accused was moved before the learned trial Court and the same was dismissed; that applicant/accused is minor and aged about 15 years; that from the perusal of final medical certificate, it appears that no sexual intercourse has been committed by

the applicant/accused; that after receiving the DNA report, the bail application was repeated before the learned trial Court on fresh ground, but the same was also dismissed without hearing the learned counsel for the applicant and without issuing notice to other side; that since fresh ground of DNA report has come on the surface and it was appropriate for learned trial Court to decide the bail application after hearing the parties, but he has decided the same in hasty manner, therefore, he prayed to set-aside the impugned order and the learned trial Court may be directed to decide the subsequent bail application of the applicant/accused after issuance of notice to the other side.

4. Learned DPG for the State has not opposed such proposal of learned counsel for the applicant/accused.

5. I have heard the arguments advanced by learned counsel for the parties and perused the material available on record. It is an admitted position that after receiving the DNA report the learned counsel for the applicant/accused has repeated bail application on fresh ground before the learned trial Court, but the same was not considered by the trial Court. From the perusal of order dated 08.07.2019, it reflects that the bail application was dismissed on the ground that earlier the bail application has been dismissed. Since the applicant has filed bail application on fresh grounds and same was not decided in accordance with law, therefore the impugned order dated 08.07.2019 is set-aside. The bail application shall be deemed to be pending before the trial Court. The trial Court is directed to decide the bail application of applicant/accused, after issuance of notice to the other side and hearing the parties, pass the order strictly in accordance with law.

6. The instant bail application stands disposed of in the above terms.

Judge