

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 431 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

25-4-2022

Mr. Muhammad Imran, Advocate for applicant.
Mr. Abdul Qadir Langah, Advocate a/w complainant.
Mr. Talib Ali Memon, A.P.G. a/w S. Bashir Hussain, I.O. of the case.

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Omar Sial, J: Imran Ahmed has sought post arrest bail in crime number 274 of 2020 registered under section 365-B P.P.C. at the Frere police station in Karachi. Subsequently, section 302 and 34 P.P.C. were also added as the girl Kiran who was allegedly abducted, subsequently died. Earlier, his application seeking bail was dismissed on 26-2-2022 by the learned 3rd Additional Sessions Judge, Karachi South.

2. A background to the case is that the aforementioned F.I.R. was registered on the complaint of Nasir Shah on 20-9-2020 reporting an incident which had occurred on 17-9-2020. Nasir recorded that he is a security guard and that his daughter Kiran was working in an apartment situated in Falak Naz Tower. The complainant lost contact with his daughter and when he contacted her employer he was told that Kiran had left on her own 3 days ago. The record appears to reflect that Kiran was subsequently brought to Shaikh Zahid Hospital in Rahimyarkhan where she was pronounced dead due to poisoning.

3. I have heard the learned counsels for the applicant as well as the complainant and the learned Assistant Prosecutor General who was assisted by the I.O. of the case. My findings and observations are as follows.

4. The record appears to reflect that the present applicant was implicated in this crime when the complainant recorded a section 161 Cr.P.C. statement after about 3 months of the incident. I.O. of the case present in court states that only material against the present applicant is that there is evidence in the shape of call data record which shows that he had spoken on the phone with Kiran during the time frame she was said to be abducted. Be that as it may, the record also

reflects that co-accused Nadeem, the person who the complainant had specifically identified as being the one who had induced and lured away his daughter and also as the person last seen with Kiran, has been granted bail. Neither learned A.P.G. nor learned counsel for the complainant has been able to satisfy me as to why the applicant should not be granted bail on the ground of consistency as prima facie the allegation against him i.e. that he spoke to Kiran on the phone, is on a lesser footing than the allegation against Nadeem. Even otherwise, the fact that there is call data record which establishes that the applicant has been in connection with Kiran till the time when she was murdered (according to the prosecution) or committed suicide (according to the defence) is not sufficient to establish the nexus of the applicant with the incident. Needless to say neither is there any forensic report on file nor is there a transcript of the feeling nor is there evidence that it was the applicant who was speaking to her. Accordingly, at this preliminary stage, it appears upon a prima facie analysis that the I.O. of the case has been negligent as to date he has not recorded a 161 Cr.P.C. statement of doctor or any other relevant witness of Rajanpur hospital or Rahimyarkhan hospital. Upon a query from the I.O. he states that he has written a follow up letter, however the letter shows the date as 14-3-2022 which is well after the incident. Upon further query as to who was owner of the phone which allegedly was used by the applicant to talk to Kiran, he stated that he has a data record of the in-coming and out-going calls from the said phone. The record he has presented shows that prima facie it was issued to a lady by the name of Taj Mai. The I.O. has not obtained any official confirmation as to who was the owner of the SIM, what was that person's nexus with the applicant nor has he recorded the statement of Taj Mai. It also appears that the complainant has gone on a fishing and roving exercise as during these proceedings he seems to have forgotten about Nadeem and now says that the real culprit is one Irfan and that the present applicant Imran was Irfan's companion.

5. In view of the above, the case of the applicant is one of further inquiry. Accordingly, he is admitted to post arrest bail subject to his furnishing a solvent surety in the amount of Rs.100,000 and a P.R. bond in the like amount to the satisfaction of learned trial court.

JUDGE

