

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.  
Cr. Bail Appl. No.D-06 OF 2011.

DATE

25.08.2011.

ORDER WITH SIGNATURE OF JUDGE

Mr. Anwar A. Khan Advocate for the Applicant  
Mr. Meeral Shah Deputy Prosecutor General Sindh for the State.

**Ahmed Ali M. Shaikh J:** Applicant Khadim Hussain Panhwar seeks post arrest bail in crime No.340/2010 of P.S. K.N. Shah District Dadu for offence punishable u/s 365-A, 506(2) PPC, 6/7 Anti Terrorism Act.

Contents of the prosecution case in nutshell are that on 28.07.2010 complainant Muhammad Hassan Bughio, his cousins Gul Hassan and Ashraf Ali left K.N Shah and were going to their village on two motorcycles. At about 7.15 p.m. when they reached at village Gul Muhammad Khoso, a white colour car stopped in front of them, out of which four persons emerged out, whom complainant party identified as Khalid Chandio, Ghulam Nabi Panhwar, Nawab Bughio and present applicant Khadim Hussain Panhwar duly armed with deadly weapons. They overpowered the complainant party dragged the complainant and on gun point abducted him and got him boarded in their car and thereafter they drove away towards Dadu. Later on culprits kept the abductee in the house of applicant Khadim Hussain Panhwar and ultimately they kept him at various places and tied him with iron chain. After 19 days accused Ghulam Nabi and one unknown person disclosed that they have received Rs.8,00,000/- as ransom from his cousins Gul Hassan and Ashraf Ali and saying so they released him. After his release from captivity of his captors, complainant remained at home and after recovery of his health lodged the report.

Mrs. Shabana Kausar Jatoti learned counsel for the applicant/accused contended that the FIR is belated by 30 days without any plausible explanation as it has been registered after 10/12 days of release of the complainant; P.Ws did not disclose about payment of ransom amount in their 161 Cr.P.C statements; no specific role is attributed to the applicant/accused and the role so assigned to him is only that complainant/abductee was confined in his house for one day; P.Ws Gul Hassan and Ashraf in their affidavits have exonerated the applicant/accused, therefore, in such circumstances, the case of the

applicant/accused comes within the ambit of further inquiry and he is entitled for concession of bail.

Conversely Syed Meeral Shah learned Deputy Prosecutor General Sindh for the State vehemently opposed the bail application on the ground that the applicant/accused is not only nominated in the FIR lodged by the abductee but crime property viz. pistol, car used in the crime and share of ransom amount of Rs.50,000/- have been recovered from him, which prima-facie connects the applicant with commission of offence, therefore he does not deserve the concession of bail.

We have heard learned counsel for the applicant/accused, learned State counsel and perused the material available on record with their able assistance.

Nodoubt the name of the applicant transpired in the FIR, he was said to be member of gang by whom complainant was abducted. It is the case of prosecution that after his abduction complainant(abductee) was kept in captivity in the house of present applicant. During course of investigation, car which was used in the commission of the offence, pistol and cash Rs.50,000/- were recovered from the present applicant, which prima-facie connects the applicant/accused with the commission of the above offence. So far the affidavits of P.W Gul Hassan and Ashraf Ali whereby they exonerated the applicants from the commission of offence is nothing but an attempt on the part of the applicant with sole object to create doubt about the prosecution version. At this stage we do not propose to make any comments with regard to the affidavits of these two P.Ws. for the reason that they would still be examined in the trial court as witnesses where they would be subjected to cross examination but this fact alone is not enough to falsify other material available on record i.e. FIR, which has been lodged by the abductee himself, recovery of weapon as well as car used in the crime and recovery of cash Rs.50,000/- which is said to part of the ransom amount. It is worthwhile to mention here that the applicant has been booked for an offence of kidnapping for ransom and in like cases abductee has to be believed, unless strong reasons are available to discredit his testimony. The evidence of abductee is material piece of evidence and conviction can be based on the basis of testimony of the abductee alone if confidence inspiring. Since the prosecution has collected sufficient material against the present applicant in shape of above material and the applicant has been nominated for an offence which falls within the prohibitory clause of section 497 (1) Cr.P.C, therefore, at this stage we are not inclined to admit the applicant on bail.

Consequently bail application being devoid of merits was dismissed by our short order dated 24.08.2011 for the aforesaid reasons.

Needless to mention here that the observations made in this order are tentative in nature and would not affect the merits of the case.

Cr. Bail Application stands disposed of.

  
JUDGE

  
JUDGE

A.K