

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-261 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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26.05.2023

Applicant present on ad-interim pre-arrest bail.

Mr. Jahangir Khan Pathan advocate holding brief for
Mr. Abubakar S. Rind advocate for complainant.

Ms. Sana Memon, Assistant Prosecutor General.

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MUHAMMAD IQBAL KALHORO, J.- Applicant, present in person, has been heard. He states that he is innocent and has been falsely implicated in this case.

2. A perusal of FIR shows that complainant has alleged that he is a flood victim and resides in a tent along with his family including his daughter in law namely Mst. Imamzadi. On 01.02.2023 at about 01:00 a.m. on cries of his daughter in law he and his other family including his son Gulsher woke up and saw applicant trying to commit rape with her. When he was called out by the complainant party, he left the tent and went to his own tent situated nearby. Complainant party followed him and met with elder brothers of applicant who, when complained, on the contrary, started threatening the complainant party.

3. Learned Assistant PG has submitted that the allegations against applicant are only of making an attempt to commit rape with daughter in law of complainant; there is no medical record of such incident and therefore she has no objection to the confirmation of bail. She further states that even the custody of applicant is not required in the circumstances.

4. Counsel for complainant has chosen to remain absent and on his behalf Mr. Jahangir Khan Pathan advocate is holding brief.

5. I have considered submissions and perused material available on record. There is delay of 23 days in registration of FIR which has not been prima facie properly explained. Charge against

applicant is of making an attempt to commit rape with daughter in law of the complainant in the tent of the complainant, where other inmates were available, which requires further inquiry. The victim prima facie was not produced before any doctor to confirm an attempt of rape upon her. Therefore, malafide on the part of complainant who has reported the matter after 23 days cannot be ruled out.

6. Accordingly, in view of above discussion, this application is allowed and applicant's ad-interim pre-arrest bail granted to him vide order dated 28.03.2023 is hereby confirmed on the same terms and condition.

7. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Ali Haider

