

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**Cr. Bail App. No. S – 61 of 2023
Cr. Bail App. No. S – 130 of 2023**

Date of hearing	Order with signature of Judge
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For hearing of bail application

1. For orders on office objections at Flag-A
2. For hearing of bail application

30.10.2023

M/s Rukhsar Ahmed M. Junejo and Saifuddin Laghari,
Advocates for applicants along with applicants.

M/s Irshad Hussain Dharejo and Shabbir Ali Bozdar,
Advocates for complainant along with complainant.

Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – Allegedly, on 17.12.2022 at about 0200 hours, all three accused stormed into the house of complainant, a teacher by profession, and on the show of weapons, abducted his daughter Miss Parveen for the purpose of forceful marriage. The incident was reported on the same day to Police Station Mirwah at about 1900 hours; and after investigation, the Challan has been submitted.

2. The application for pre-arrest bail filed by the applicants has been dismissed by the trial Court vide order dated 11.01.2023. The defence put up by the applicants for bail is that the abductee herself had executed a freewill marriage affidavit on 19.12.2022, and then her *nikah* was performed with applicant Amanat Ali. She had later on filed a C. P. No. D-8195 of 2022 at Principal Seat of this Court at Karachi, reiterating her freewill marriage. Subsequently, she was returned to her parents under some private arrangement, and thereafter, she changed her stance and started recording statements against the applicants.

3. Learned Counsel has relied upon an unreported order of this Court dated 11.09.2023 passed in Crl. Bail Application No. S-264 of 2023 to support his arguments, and submits that this is a case of three versions. One version is in FIR, the other is her negative DNA report and third version is her petition before this Court reiterating her marriage.

4. On the other hand, learned Counsel for the complainant and learned Additional Prosecutor General both have opposed strongly this application.

5. I have considered submission of parties, perused material available on record including the case law relied at bar. In my view, there is sufficient evidence against the applicants showing their involvement in the offence, which is punishable for imprisonment for life. The freewill affidavit sworn by abductee is not before any Magistrate but before some Oath Commissioner, the authenticity of which is not without a suspicion, as it was never submitted in investigation for verification. The point, which is to be noted, is that whenever the abductee appeared before the Courts, she whined about her abduction at the hands of applicants and commission of rape by applicant Amanat Ali. Neither before this Court nor before the Magistrate where her 164 CrPC statement was recorded, she confirmed her freewill marriage with applicant Amanat Ali.

6. The investigation, as the impugned order shows, applicants failed to join, and therefore, the circumstances behind her freewill marriage/*nikah* could not be found out. But in any case from her statements before the Courts, *prima facie*, it is apparent that she was not privy or a willing party to her so called marriage with applicant Amanat Ali.

7. No case for extra ordinary relief of pre-arrest bail is made out in favour of applicants in these circumstances when they are nominated in FIR, and in the investigation found involved in the alleged offence. The abductee herself has supported her abduction by applicants and rape by applicant Amanat Ali. The negative report of DNA at this stage cannot be cited in favour of the applicants for the reason it requires deeper appreciation by the Court in the trial. However, the fact that in the medical examination, she was not found virgin, shows that she has been sexually used.

8. Therefore, finding no cogent reason to grant extra ordinary relief of pre-arrest bail to the applicants, which is meant to save the innocent persons from arrest in non-bailable offences in which they have been falsely implicated, I **dismiss** the bail applications of

applicants and recall orders of this Court dated 26.01.2023 and 27.02.2023, respectively, whereby interim pre-arrest bail was granted to them.

9. The observations, as above, are tentative in nature and not meant to affect merits of the case before the trial Court.

Both bail applications stand **disposed of** in the above terms. Office to place a signed copy of this order in the captioned connected matter.

Abdul Basit

J U D G E