

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 2044 of 2023

For hearing of Bail Application.

Applicant/ Accused : Waqar Hussain son of Ashique Hussain through Mr. Nazar Muhammad, Advocate.

Complainant : Nemo.

The State : Through Ms. Amna Ansari Additional Prosecutor General Sindh.

Date of hearing : 12-10-2023

Date of order : 12-10-2023

*FIR No. 174/2020
U/s: 469-A r/w S. 376(i) PPC
P.S. Ibrahim Hyderi, Karachi*

ORDER

Adnan Iqbal Chaudhry J. - The Applicant/ Accused seeks post-arrest bail in the aforesaid crime after the same had been declined by the Additional Sessions Judge-VI, Malir, Karachi by order dated 27-06-2023.

2. As per the FIR lodged on 28-03-2020, the Complainant reported that his second wife namely Sawera was not found at home when he returned from work; that his first wife namely Saima informed him that Sawera had gone to the neighbors and has since not returned; that the Complainant made a missing person report to the police station and started looking for Sawera; that the FIR was ultimately lodged under section 469-A PPC when the Complainant reported that he has discovered that Sawera had been enticed away by the Applicant with the intent to commit zina and that his first wife was an accomplice.

3. Heard learned counsel, the APG Sindh and perused the record.

4. As per the challan, Sawera emerged on 16-05-2020 at the police station alongwith a counsel and the Complainant where she gave a

statement that with the connivance of the first wife she was abducted and detained in the house of one Mukhtiar and Naveed where she was raped by the Applicant/accused; that one Shabir had also demanded ransom for her release from the Complainant; that she was also made to sign certain documents by her detainees; that she eventually managed to flee and ended up at the Dar-ul-Aman at Bahawalpur where the Complainant was contacted to come get her. As per the challan, that very statement was then made by Sawera before the Magistrate under section 164 CrPC, and hence the addition in the challan of the offence of rape under section 376 PPC.

5. As the matter presently stands, the statement of the victim Sawera made under section 164 CrPC fully implicates the Applicant/accused for the offence of rape. Reliance made by counsel on a statement of an unknown person of the DNA Branch that the sample obtained from the victim was of no help, is pointless at this stage when admittedly the DNA sample of the Applicant was not accepted for matching by said Branch. The report of the medical examination of the victim too does not exonerate the Applicant at this stage as that only opines that there was no fresh act of rape.

6. For the foregoing reasons, the accused Waqar Hussain has not been able to make out a case for bail at this stage. Consequently, the bail application is dismissed.

Needless to state that the observations above are tentative and shall not be construed to prejudice the case of either side at trial.

JUDGE

SHABAN*