

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Cr. Bail Application No.S-661 of 2023

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
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1. For orders on office objections.
2. For hearing of main case.

**18.09.2023.**

Mr. Nadir Hussain Jamali, Advocate for applicant.  
Mr. Rasheed Ahmed Panhwar, Advocate for complainant.  
Ms. Safa Hisbani, Assistant P.G.

**ORDER**

**ARSHAD HUSSAIN KHAN, J.-** By this order, I intend to dispose of the aforesaid criminal bail application, whereby applicant Hoat Chand Meghwar has sought pre-arrest bail in Crime No.06 of 2023, registered at P.S Khokhrapar, under Sections 365, 506(2), 427, 337-A(i), 504, 509, 34 PPC.

2. It is alleged that on 27.09.2022 the applicant alongwith co-accused and unknown persons entered into the house of complainant and on the force of weapons damaged the household articles, maltreated her family members and took away them to police station in a vehicle and lastly in evening time they were released but took away her son namely Tailraj in vehicle; hence, F.I.R was lodged.

3. Learned Counsel for the applicant has contended that applicant is innocent and has been falsely implicated in this case; that the story narrated in FIR is unbelievable and untrustworthy; that there is unexplained delay of seven months in lodging of FIR; that the instant FIR is the result of a direct complaint filed by daughter-in-law of complainant in which the name of applicant was mentioned, which was dismissed by the learned trial Judge; that complainant party has grievances against Helepotto community over agricultural lands where the present applicant was posted as SHO; that complainant party is

habitual in moving the frivolous complaints against local peoples as well as their rival party; that the story narrated in FIR is totally vague and concocted particularly with regard to alleged abductee; that on the direction of this Court SSP Umerkot constituted a special team under supervision of concerned DSP and other senior police officials for recovery of the alleged detinue but all in vain; that no specific role has been assigned to the applicant; hence, the case against the applicant requires further inquiry and therefore he cannot be incarcerated. He, therefore, prays for grant of bail.

4. Learned A.P.G and learned Counsel for the complainant have opposed the bail plea of the applicant while arguing that applicant is nominated in FIR which contains allegation of abduction of complainant's son against him.

5. Heard learned Counsel for the parties and perused the record with their assistance.

6. Undoubtedly, the FIR is delayed for about seven months for which no explanation has been furnished by the prosecution for such inordinate delay. Mere delay in lodging of FIR is no ground to grant bail to an accused but Superior Courts have always considered the delay as fatal for the prosecution in criminal cases. After tentative assessment of the record it appears that complainant party has dispute against a third party in which the applicant has been named as their supporter. Prior to lodging of F.I.R complainant's daughter-in-law had filed a Direct Complaint No.01 of 2023 against the present applicant and others by leveling same set of allegations before the learned Consumer Protection Court / Judicial Magistrate, Umerkot, which was dismissed vide order dated 02.01.2023. After such dismissal the complainant has lodged the present F.I.R on 13.05.2023 with delay of about seven months. In such situation, it is crystal clear that case against the applicant is one of further inquiry and mala fide on the part of complainant cannot be ruled out. The challan has been submitted before the competent Court and applicant is no more required for

further investigation and no purpose would be served if pre-arrest bail of the applicant is rejected.

7. In view of the foregoing, the applicant has effectively made out his case for confirmation of his interim pre-arrest bail. I, therefore, confirm his interim pre-arrest bail already granted to him vide order dated 26.06.2023; however, subject to furnishing additional surety of Rs.100,000/- (Rupees One Hundred Thousand) and P.R Bond in the like amount to the satisfaction of the Additional Registrar of this Court.

8. Needless to mention here that any observation made in this order is tentative in nature and shall not affect the determination of the facts at the trial or influence the trial Court in reaching its decision on the merits of the case.

JUDGE

Shahid