

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-1306 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

20.01.2025

Applicant is present on bail.

Mr. Masood Rasool Babar Memon, Advocate for applicant.

Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.

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O R D E R

AMJAD ALI SAHITO, J:- Through this bail application, the applicant is seeking confirmation of his pre-arrest bail in Crime No.121 of 2024, for offence under sections 365-B, 452, 511, 506(2) & 34 P.P.C, registered at P.S. Sinjhor. Earlier bail plea of applicant was declined by the learned Additional Sessions Judge, Khipro vide impugned order dated 21.11.2024.

2. The facts of the case are already mentioned in the F.I.R and memo of bail application, hence need not to reproduce the same hereunder.

3. Per learned counsel for applicant, in fact there was matrimonial dispute regarding *Rishta* between the parties and on the day of incident, the applicant / accused along-with co-accused went over to house of complainant and demanded him the date for *Rukhsati* of his daughter namely Mst. Aleena but on the refusal of complainant, this FIR was registered otherwise the applicant / accused is innocent. Lastly prayed for confirmation of bail.

4. Mr. Suneel Kumar Perhyar, advocate files Vakalatnama on behalf of complainant vehemently opposed the confirmation of bail so also by learned APG. The alleged victim namely Mst. Aleena Fazal present in the Court and states that she is medical student and studying in Roshan Sulaiman University Tando Adam and applicant / accused used to harass her on the way, as such, she made complaints to her father and thereafter instant FIR was registered, hence accuses is very much involved in this case and subsequently accused party entered into her house and tried to kidnap her. Lastly prayed for dismissal of instant bail application.

5. Heard learned counsel for the respective parties and perused the record.

6. The case of prosecution is that the daughter of complainant namely Mst. Aleena Fazal aged about 23 / 24 years used to study in Roshan Sulaiman University Tando Adam being studying in fourth year of (DPD) and the accused Muhammad Zeeshan used to harass the victim Mst. Aleena on the ground to marry with him and on her refusal on the day of incident viz. 05.11.2024 at about 11:00 hours, he along-with co-accused entered into the house of complainant and tried to forcibly kidnap Mst. Aleena but due to

intervention of the complainant and other mehalla people she was saved. The victim present in Court raised objection for confirmation of bail and also supported the version of the complainant on the ground that due to harassment of the accused persons she was unable to continue her education as she is studying of Roshan Sulaiman University Tando Adam. The offence with which the applicant is charged, punishable imprisonment for life, as such, falls within the prohibitory clause of section 497 Cr.P.C. Sufficient material available on record to connect the applicant with the commission of alleged offence. At bail stage only tentative assessment is to be made and nothing has been brought on record to show any ill-will or malafide on the part of the complainant which is requirement for grant of pre-arrest bail. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”

7. In view of above discussions, the applicant/accused failed to make out good case for confirmation of his bail. Consequently, the bail application is **dismissed** and interim pre-arrest bail earlier granted to the applicant/accused vide order dated 05.12.2024 is hereby **re-called**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and same would prejudice the case of either party at trial.

JUDGE