

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
1<sup>ST</sup> CrI. Bail Appln. No.S-266 of 2014. ✓  
1<sup>ST</sup> CrI. Bail Appln. No.S-292 of 2014.  
1<sup>ST</sup> CrI. Bail Appln. No.S-305 of 2014.



DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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26.01.2015.

1. For orders on office objection.
2. For Hearing.

Mr. Qazi Manzoor Ahmed, advocate for applicant Meer alias Khair Muhammad Dero in CrI. Bail Appln. No.S-292/2014.

Mr. Mazhar Ali Bhutto, advocate for applicants Muhammad Khan Dero and Zaffar Jat, in CrI. Bail Applications No.S-266 and 305 of 2014, alongwith applicant Muhammad Khan Dero, who is present on interim pre-arrest bail.

Mr. Khadim Hussain Khooharo, Deputy Prosecutor General.

Complainant is present in person.

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By this single order I will dispose of the aforesaid bail applications. Applicants Meer alias Khair Muhammad and Zafar Jat seek post arrest bail, whereas applicant Muhammad Khan Dero seeks pre-arrest bail in crime No.50/2014, registered at Police Station Nasirabad, for offences under Sections 365-B, 34, PPC.

2. Brief facts of the prosecution case as disclosed in the F.I.R. that on 06.5.2014, complainant after offering the prayer at dawn time came back and was sitting on a cot. His sister Mst. Fozia, aged about 17/18 years, maternal uncle Hajan son of Muhammad Uris and Ghulam Qadir son of Dur Muhammad and other family members were sitting. It was 6.00 a.m. A car white-coloured stopped at the door of the complainant. Four persons got down from the car, they were armed with deadly weapons. Out of them complainant could identify two persons, namely, Aijaz Ali Khoso, armed with repeater and Deedar Ali Khoso, armed with pistol, while two persons were unidentified. Thereafter, it is alleged that accused persons by show of force abducted Fozia and by dragging her took her to the car. Complainant party raised cries, but without any result. Complainant could not follow the accused persons

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because of their fear. Complainant has stated that his father Dhani Bux was not present at the house and he had gone for some work to the relatives. On his return, F.I.R. was lodged on 09.5.2014, by complainant Hamzo Khan Dero for offence under Sections 365-B, 34, PPC, at Police Station Nasirabad. It is stated that accused Aijaz Ali abducted sister of the complainant with intention to commit sexual intercourse with her.

3. After registration of the F.I.R. under Section 365-B, 34, PPC, investigation was carried out. During investigation, 161, Cr.P.C statement of Mst. Fozia was recorded. Mst. Fozia was also produced before the Civil Judge & Judicial Magistrate-I, Warah, where her 164, Cr.P.C statement was recorded, in which she has stated that about one month back her maternal uncle, namely, Meer, who is accused in this case, gave mobile number of one Muhammad Ali Soomro for the purpose of contact. Thereafter, she established contact with Muhammad Ali Soomro and love affair between Mst. Fozia and Muhammad Ali started. She has further stated that she left the house of her father and went to given address of accused, where accused Zafar Jat and Mashooque Khoso and Muhammad Khan were standing with Meer. Thereafter, she has stated that accused persons gave some intoxication to Mst. Fozia and took her to Karachi. Thereafter, she was taken to different places and her photographs were taken. She got some space/opportunity and ran from that place and came to Nasirabad.

4. On the completion of usual investigation challan was submitted against the applicants/accused. Bail applications were moved by the applicants, which were dismissed by the learned Sessions Judge, Kamber-Shahdadkot, vide orders dated 12.6.2014 and 16.6.2014 respectively. Thereafter, the applicants/accused have approached this Court.



5. Mr. Qazi Manzoor Ahmed, learned advocate for the applicant/accused Meer alias Khair Muhammad Dero, mainly contended that accused Meer is maternal uncle of Mst. Fozia, he has played no role at all in the commission of the offence. Even otherwise, no illicit act can be attributed to the maternal uncle and ingredients of Section 365-B, PPC are not attracted in this case. He has further submitted that Mst.Fozia in her 164, Cr.P.C statement has belied the version given by the complainant in the F.I.R. She left the house of her parents with her own freewill and returned back. He has further submitted that due to matrimonial affairs applicant Meer has been involved in this case for the malafide reasons by the complainant.

6. Mr. Mazhar Ali Bhutto, advocate appearing on behalf of accused Muhammad Khan and Zafar Jat, argued that no allegation of commission of zina has been attributed by Mst. Fozia against them in her 164, Cr.P.C statement. He has further submitted that no incriminating material has been collected against them during investigation. In support of their contentions, learned advocates for the applicants/accused have relied upon the cases of *Muhammad Javed Iqbal v. The State (2010 YLR 1035)*, *Ghulam Hyder v. The State (2011 YLR 2446)* and *Muhammad Younas v. Muhammad Hanif Khan (2014 YLR 1161)*.

7. Mr. Khadim Hussain Khooharo, learned Deputy Prosecutor General, argued that accused Meer has been implicated by Mst. Fozia in her statement. However, he has conceded that no role has been attributed to co-accused Zafar Jat and Muhammad Khan by Mst. Fozia in her 164, Cr.P.C statement. He has opposed the bail applications.

8. I am inclined to grant bail to the applicants/accused for the reasons that there are two versions of this case, one version given by the complainant disclosing the abduction of Mst. Fozia and another version given by Mst. Fozia before Civil Judge & Judicial Magistrate, in which



she has clearly stated that she left the house of her parents with freewill and returned back. No active role has been assigned to applicants Muhammad Khan and Zafar Jat. So far the part played by accused Meer is concerned, admittedly he is the maternal uncle of Mst. Fozia. Ingredients of Section 365-B, PPC are not attracted to the case of Meer alias Khair Muhammad. Section 365-B, PPC reads as under :-

**“365-B, Kidnapping, abducting or inducing woman to compel for marriage etc.** Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced, or seduced to illicit intercourse, or knowing, it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment for life, and shall also be liable to fine; and whoever by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punished as aforesaid.”

9. Moreover, the investigation is complete and the case has been challaned. Rightly reliance has been placed upon the cases reported as *Muhammad Javed Iqbal v. The State (2010 YLR 1035)*, *Ghulam Hyder v. The State (2011 YLR 2446)* and *Muhammad Younas v. Muhammad Hanif Khan (2014 YLR 1161)*. Prima facie, Case against the applicants/accused requires further enquiry. Therefore, concession of bail is extended to the applicants Meer alias Khair Muhammad Dero and Zafar Jat subject to their furnishing surety in the sum of Rs.100,000/- (Rupees One Lac) each and P.R bond in the like amount to the satisfaction of the trial Court. Interim pre-arrest bail already granted to applicant/accused Muhammad Khan Dero on 23.6.2014 is hereby confirmed on same terms and conditions.

10. Needless to mention that the observations made hereinabove are tentative in nature and the trial Court shall not be influenced in any manner while deciding the case.

26.1.2015  
JUDGE