

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Criminal Bail Application No. S-88 and S-199 of 2018

Applicant in Cri. Bail Application No. **S-88** of 2018:
Ahmed Ali Gopang s/o. Rasool Bux.

Applicant in Cri. Bail Application No. **S-199** of 2018:
Bakhshal Gopang s/o. Budhal alias Achar

Both through Mr. Muhammad Afzal Jagirani,
Advocate.

Respondent in both Cri. Bail Applications:
The State, through Mr. Khadim Hussain Khoonharo,
A.P.G.

Date of hearing: 27.08.2018

Date of order: 27.08.2018

ORDER

ZAFAR AHMED RAJPUT, J:- By this common order, I intend to dispose of both the listed bail applications, as the same being arising out of Crime/F.I.R. No. 06 of 2000, registered at P.S Women, District Larkana under Section 11/16 Offence of Zina (Enforcement of Hudood) Ordinance & 34, P.P.C. have been heard together.

2. Through Criminal Bail Application No. **S-88** of 2018, applicant/accused Ahmed Ali Gopang s/o. Rasool Bux seeks post-arrest arrest bail and by means of Criminal Bail Application No. **S-199** of 2018, applicant/accused Bakhshal Gopang s/o. Budhal alias Achar seeks pre-arrest bail in aforementioned crime. Earlier application filed by the latter for grant of pre-arrest bail bearing No. 39 of 2018 was heard and dismissed by the learned IVth Additional Sessions Judge, Larkana, vide Order dated 08.02.2018; thereafter, he was admitted to ad-interim pre-arrest bail by this Court, vide Order dated 02.05.2018, now he seeks confirmation of his bail.

3. Briefly stated, the facts of the case are that on 04.05.2000 complainant Mst. Bashiran lodged aforementioned F.I.R., alleging therein that about three months back she was married to Muhammad Ramzan Gopang and on 30.4.2000 in evening time Ahmed Ali and his father Rasool Bux, who are relatives of her husband, came in the house duly armed with guns and took her in a car, wherein two unknown persons were already sitting, to an unknown place where she was detained. Later at night time, Ahmed Ali told her that since her brother Alam had abused him, he took the revenge from him, and then he after committing *zina* with her tagged her eyes with clothe and thus she could not know who then committed *zina* with her, which was committed 2/3 times and thereafter on previous day Ahmed Ali and his father Rasool Bux left her at near District Jail by asking to give the *salam* to the parents as they have taken the revenge.

4. Learned counsel for the applicants has mainly contended that the applicants are innocent and have falsely been implicated in this case; that though the allegation of committing *zina* has been levelled by the complainant in the F.I.R. against applicant Ahmed Ali, the Medico Legal Report does not suggest commission of alleged act; the name of applicant Bakhshal Gopang does not appear in the F.I.R., but later he was implicated by the P.Ws in their 161 recorded under section Cr.P.C, hence is it a fit case of further enquiry.

5. Learned A.P.G has not controverted the contention of learned counsel for the applicants with regard to the MLR of the complainant.

6. It appears that applicant Ahmed Ali is confined in judicial custody since 18.04.2016. Police submitted the challan against the accused persons, hence they are not required by the police for further investigation. The prosecution case rests on the sloe evidence of the complaint as there is no eye witness of the alleged abduction of the complainant. The witnesses cited in the challan are either police officials or relative of the complaint; hence, there is no apprehension of

tampering with the prosecution evidence. As per MLR, the complainant was examined by M.L.O on 05.5.2000, after six days of alleged abduction and no external injuries over her body and private parts was found. The swab taken by the M.L.O was sent to pathological examination and the report in respect is negative. While applicant Bakhshal Gopang is not nominated in the F.I.R. Hence the guilt of applicants requires as envisaged under sub-section (2) of section 497, Cr. P.C.

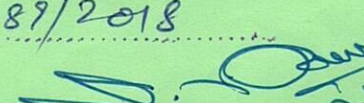
7. In view of above, applicant Ahmed Ali is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/= and P.R bond in the like amount to the satisfaction of Additional Registrar of this Court while the interim pre-arrest bail granted to the applicant/accused Buxial Gopang, vide Order dated 02.05.2018, is hereby confirmed on the same terms and conditions.

8. Needless to mention here that if applicants in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel their bail after issuing them the requisite notice.

9. Both the listed criminal bail applications stand disposed of in above terms.

Above are the reasons of my short order dated 27.08.2018.


JUDGE

Mr. Shahzad S/o. Budhal Gopang
CNIC No. 43402-0402657-1
Stood surety fro applicant(s) / accused (Name(s) a/w CNIC No.)
Ahmed Ali (43203-1162455-9)
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.....
In the Sum of Rs. ₹5000/- each Total
Rs. ₹5000/- On 01.10.2018
Vide Surety Bond No. 289/2018

Accountant