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ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.  
Cr. Bail Appln. No: S- 369 of 2012.

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<u>Date</u>	<u>Order with signature of judge.</u>
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1. For orders on office objection as flag A.
2. For Hearing.

15.08.2012.

Mr. Athar Abbas Solangi, advocate for the applicant.

Mr. Imtiaz Ahmed Shahani, State Counsel.

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**SALAHUDDIN PANHWAR, J.:-** Applicant Rasool Bux seeks post arrest bail in Crime No.34/2012 of P.S Thul under section, 365 B, 382, 148, 149, PPC.

2. The facts leading to the subject matter are that applicant/complainant Rasool Bux Banglani lodged FIR with P.S Thul, stating therein that his marriage was solemnized with Mst.Reshma D/O Ali Mohammad Khoso according to *Shariat Mohamadi*, and On 01.03.2012 in the night hours some accused persons intruded in his house, forcibly abducted Mst.Reshma wife of applicant, also they took away some household articles.

3. After registration of F.I.R applicant/complainant filed writ petition No.184 of 2012, before this Court for arrest of accused and recovery of his wife. Same was disposed of by order dated 10.04.2012. The investigation officer disclosed before this Court that the one of nominated accused has been arrested and he will make efforts to recover the lady wife of applicant and arrest of remaining of accused, interim Challan was submitted against the nominated accused, all accused were shown absconder except one accused. Subsequently, in final report under section 173 Cr.P.C, the investigating officer disclosed that "during investigation it is surfaced that Mst.Reshma



@ Fatima was never kidnapped by nominated accused persons, in fact, her marriage was solemnized with Khan Mohammad Khoso; Mst Reshma alias Fatima appeared before Magistrate Dera Ghazi Khan where she recorded her statement and disclosed that she was abducted by some accused persons and they had sold her to the applicant/complainant; She remained eight months in illegal captivity of applicant, wherefrom she escaped and reached at Dera Ghazi Khan." Consequently the investigation officer arrested the applicant in this case and submitted report against him that applicant has committed offence under section 371A, 371B, 376, 34 PPC.

4. Applicant's counsel has inter-alia contended that FIR was lodged by the applicant. None else has lodged FIR about the abduction or forcible marriage of Mst.Reshma alias Fatima. In fact lady Mst.Reshma @ Fatima was wife of the applicant, remained with him but subsequently she was abducted by nominated accused persons. Police by malafide intention twisted the facts and wrongfully implicated the applicant/accused into this case; investigation officer has not recorded statement of lady Mst Reshma alias Fatima in this case nor magistrate Dera Gazi khan has been cited as witness in this case;

5. Conversely, learned State Counsel has not controverted the grounds raised by the counsel for the applicant and has conceded to grant of bail.

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

7. Candidly applicant is complainant in FIR No.34/2012. He is the person who set the law into motion regarding the abduction of his wife



Mst Reshma alias Fatima by filing FIR. There is no other FIR in respect of said offence. Admittedly applicant filed a constitutional petition and investigation officer appeared before this Court, categorically made statement that one nominated accused by complainant/applicant has been arrested and remaining will be arrested. It is also matter of fact that interim challan was submitted against the persons who were nominated by the applicant/ complainant in his FIR in question; photocopy of order of Magistrate, Dera Ghazi Khan available with prosecution, narrates new story, set up against the applicant but concerned Investigation Officer has not made any effort to record the statement of that lady or concerned Magistrate, where statement of lady was recorded nor her name is available in the challan sheet as witness, without examination of lady Mst Reshma and Magistrate Dera Gazi Khan prosecution cannot prove the case against the applicant, it is very strange that investigation officer has not made any serious effort to collect the evidence of abductee Mst Reshma, this is a case of abduction of one lady but no serious efforts have been made by investigation officer to recover the lady and, investigate the case honestly, on the contrary whole case has been spoiled by the concerned investigation officer, consequently, without any hesitation, it is suffice to say that there is no iota of evidence against the applicant; that nikahnama of lady Reshma and applicant/ complainant has been produced by the applicant but same has not been investigated by the investigation officer to ascertain the factual position regarding marriage of applicant and lady Mst Reshma, not a single statement of witnesses named in nikahnama has been recorded by investigation officer to check the veracity of that document; there is no speck of evidence to connect the applicant in offence, therefore case of applicant falls within scope of further inquiry, case of prosecution



apparently is not free from doubt and it is settled law that benefit of doubt at the bail stage can be extended in the favour of accused.

8. keeping in view of above given circumstances, applicant is entitled for bail after arrest.

This bail was granted by short order dated 15.08.2012 and above are the reasons for the same.



JUDGE