

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

Criminal Bail Application No.S-1129 of 2022.

DATE ORDER WITH SIGNATURE OF JUDGE

For orders on office objection.

For hearing of main case.

19.12.2022.

Ms. Kalsoom Gopang advocate for applicants.

Syed Jan Muhammad Bukhari advocate for complainant.

Mr. Imran Ali Abbasi Assistant Prosecutor General.

Applicants are present on ad-interim pre-arrest bail.

SIP Ali Mardan PS Bandhi.

ORDER

MUHAMMAD IQBAL KALHORO, J:- In FIR allegations leveled against the applicants are that they conjointly committed trespass of house of son-in-law of complainant situated in Deh Nusrat Taluka Daur and abducted his daughter namely Sonia on 24.09.2022 at about 02:30 a.m. After two days on 26.09.2022 this FIR was registered. Abductee was recovered on 28.09.2022 and her 164 CrPC statement was recorded on 05.10.2022 in which prima facie she has supported the allegations of her abduction and rape with her by certain accused including applicants. However, DNA report of samples is negative. In any case the allegation of abduction after committing house trespass of son-in-law of complainant is prima facie established so also abduction of abductee.

Learned defence counsel has nevertheless pleaded for bail on the ground that there is delay of two days; the story is not probable and does not appeal to common sense; there are contradictions in 161 CrPC statement and 164 CrPC statement of prosecutrix / abductee and the statement of husband of abductee. On the other hand, learned counsel for complainant has opposed bail so also learned APG. I.O. is present who has supported the incident and submits that daughter of complainant was infact abducted and her statement has been recorded by Magistrate concerned u/s 164 CrPC.

In any case there is a prima face case against applicants in shape of direct allegations by abductee which are supported by complainant. Such allegations when subjected to investigation have been prima facie established, to boot. Mere negative report of DNA samples, which are to be collected under certain protocol and whether such protocol was maintained in this case or not, cannot give rise to presumption that the case against the applicants is outcome of some malafide on the part of complainant, which is to be weighed more than merits of the case in the application for pre-arrest bail, which is extra-ordinary relief, is to be extended to innocent persons to save them from arrest in a non bailable offence, otherwise a requirement of law. Accordingly, the bail application is dismissed and ad-interim pre-arrest bail granted to applicants vide order dated 25.10.2022 is hereby recalled.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE