

## ORDER-SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA  
 Crl. Bail Appln. No. S- 418 of 2017.  
 Crl. Bail Appln. No. S- 446 of 2017.

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Date of hearing	Order with signature of Judge
17.11.2017.	

Mr. Ashfaq Hussain Abro, Advocate for applicants in both bail applications.

Mr. Abdul Ghani Bijarani, Advocate for complainant in both bail applications.

Mrs. Rubina Dhamrah, A.D.P.P.

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Muhammad Saleem Jessar, J- Through these bail application, applicants Farooq Ahmed, Mushtaq Ahmed and Muhammad Sulleman alias Sulleman Khan seek pre-arrest bail in Crime No.28/2017 of P.S Tangwani, District Kashmore @ Kandhkot, registered for offences punishable under Sections 506 (2), 452, 365-B, 511, 337-F (i), 147, 148, 149 P.P.C.

Earlier, the bail plea of the applicants has been declined by learned Sessions Judge, Kashmore @ Kandhkot, by means of separate Orders dated 29.08.2017.

The crux of prosecution case is that on 09.7.2017 complainant Mst. Parveen Khatoon lodged report with P.S Tangwani, to the effect that on 26.6.2017, at about 0800 hours at her house situated in Deh Manjhi, the accused persons Mushtaq Ahmed, Muhammad Sulleman, Farooq Ahmed, Manzoor Ahmed and Barkat Ali accompanying one unknown persons having lathis, kalashnikov and T.T pistols trespassed their house and attempted to abduct her, to which PWs Mashooque Ali and Mst. Wazir Khatoon offered resistance to culprits, whereupon accused Sulleman and Barkat Ali caused lathi blows to PW Mashooq Ali and ultimately on gathering of neighbors the accused persons while extending threats left scene of offence. The motive behind the incident, as set-out in the F.I.R is that accused persons wanted to get complainant

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forcibly married to accused Farooq Ahmed, which she do not want, as such the accused persons tried to forcibly abduct her.

Learned counsel for applicant mainly contended that, F.I.R. is delayed for thirteen days; parties are already inimical towards each other over matrimonial affairs; that after impartial investigation the case was recommended for its disposal under cancel "C" class; that no abduction took place as such ingredients of Section 365-B P.P.C are not attracted to instant case and there remains only attempt and that the injuries on the person of PW Mashooque Ali are on non-vital part of his body and do not fall within prohibitory clause. Learned counsel submits that after grant of pre-arrest bail, the applicants have joined the trial and are regularly attending the trial Court and no purpose would be served, if the applicants are refused bail before arrest and ultimately granted post arrest bail.

Conversely, learned Advocate for complainant vehemently opposed grant of bail on the ground that the applicants are nominated in F.I.R. with their names, parentage and specific role of abducting the complainant but it was her luck that she was saved due to intervention of the neighboring people and that the applicants are involved in case of heinous nature. Learned ADPP appearing for the State does not controvert submissions of learned counsel for the applicant; however she half heartedly objected grant of bail in favor of applicants.

Record reflects that, the parties are already inimical towards each other over matrimony and the F.I.R. is also delayed for about thirteen (13) days and that the injury allegedly sustained by the PW are on the vital part of his body. The investigating agency has not believed the version of the complainant, as such the case was recommended for its disposal under cancel "C" class. Admittedly, no abduction has taken place, therefore, ingredients of Section 365-B P.P.C are not attracted to instant case and there remains only attempt of abduction. Moreover, the applicants have already jointed the trial and attending the trial Court.



The conditions prescribed by the Hon'ble Supreme Court of Pakistan for grant of pre-arrest bail are satisfied. Accordingly, in view of the dictum laid down by Hon'ble Supreme Court in case of *Muhammad Arshad v. The State* (PLD 2009 S.C 427) and case *Tariq Bashir v. The State* (PLD 1995 S.C 34), the instant application stands allowed. Consequently, interim pre-arrest bail already granted to applicants vide Order dated 05.09.2017 and 18.09.2017 respectively, are hereby confirmed on same terms and conditions.

JUDGE

17/11/2018

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