

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

Cr. B.A. No. S- 520 of 2017

DATED **ORDER WITH SIGNATURE OF JUDGE**

07.02.2018

For orders on office objection
For hearing

Mr. Amjad Hussain Shah, advocate for applicant in Cr. B.A. No. S- 520 of 2017

Mr. Ayaz Ali Ghuryani, advocate for applicant in Cr. B.A. No. S- 363 of 2017

Mr. Abdul Hakeem Chandio, advocate for complainant.

Mr. Shahid Ahmed Shaikh, D.P.G.

OMAR SIAL, J.- Through captioned bail applications, Ghulam Haider applicant in Cr. Bail Appl. No. 520 of 2017 and Abdul Rauf applicant in Cr. B.A. No. S-363 of 2017 have sought post-arrest bail in Crime No. 81 of 2017 registered under Section 496-A, 337-J & 370 P.P.C. at Jamshoro police station. Earlier their post-arrest bail application was turned down by the learned Additional Sessions Judge, Kotri on 3.5.2017.

2. Since both the bail applications arise out of same F.I.R, hence, I intend to dispose of them by this common order.

3. The F.I.R. in this case has been lodged by complainant Ghulam Rasool on 13.4.2017. He stated that his cousin Zulekha, along with her husband Rasool Bux Chandio and children, was living with him. On 15.10.2003 she was admitted in Ward No.13 of LUMCH due to some gynaecological problem. The same day she disappeared from the hospital. The complainant party searched for her but could not find. In the year 2007 Zulekha's husband Rasool Bux also died. Earlier that day i.e. on 13-4-2017, Zulekha suddenly appeared at their home. She narrated that on 15-10-2003 while she was in the hospital, 2 persons had appeared and gave her something to eat which had made her unconscious. When she regained her senses she was in the house of a man named Shabbir Samejo, who subsequently sold her to a man named Abdul Rauf Shaikh, who forcefully

married her and with whom she had a daughter. She had escaped from Abdul Rauf Shaikh's house that day and reached the complainant house.

3. The fact that the only piece of evidence available with the prosecution is a section 164 Cr.P.C. statement of Zulekha in itself is not of much use, at least at this bail stage. The fact that she felt the necessity of recording a section 164 Cr.P.C. statement in the facts of the case shed a negative light on her assertions.

4. I have heard the learned counsel for the Applicant, complainant and the learned DPG and scanned the record. My observations are as follows.

i. Prima facie the story narrated in the F.I.R. appears quite implausible. It would be logical to presume that it would be rather difficult for a patient admitted in a full-fledged major hospital to be administered a drug by a random person that would make a person lose consciousness and then proceed to also remove an unconscious person from the hospital. Of course there is no evidence even in the shape of an admission record available with the prosecution.

ii. I also find it astonishing that Zulekha claims that she was in illegal confinement for 14 years and that during such period she not only married Abdul Rauf Shaikh but gave birth to and reared a daughter. When she disappeared she was already a married woman. In these long 14 years the fact that none from her family registered a case or knocked at the doors of the court or any other authority seeking help in locating her, makes her story appear even more unreal.

iii. The F.I.R. is delayed by nearly 14 years. At this stage, the reasons for delay are sketchy and vague. Yet, ulterior motive and malafide on the part of the complainant party cannot be ruled out conclusively.

iv. The rather mindboggling story of Zulekha certainly makes the case of the Applicants one of further enquiry falling within the ambit of Section 497(2) Cr.P.C.

5. For the above reasons, the Applicants are admitted to post arrest bail subject to his furnishing a solvent surety in the sum of Rs. 50,000 each and a P.R. Bond in the like amount to the satisfaction of trial court.

JUDGE