

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

Cr. Bail Application No.S-769 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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Date of hearing: 11.02.2019

Date of order: 11.02.2019

Applicants are present on interim bail.

Mr. Mazhar Hussain Kalwar, Advocate for Applicants.

Ms. Sobia Bhatti, Asst: Prosecutor General.

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**Zulfiqar Ahmad Khan, J:** Through instant Criminal Bail Application, applicants seek pre-arrest bail in Crime No.95 of 2017, registered at Police Station Bhitai Nagar U/S 365-B/511, 337-F(vi), 504, 506/2 PPC.

2. Concisely facts of the case are that complainant has a daughter namely Mst. Mariyam aged about 22 years, whose proposal was asked by Moorad Doomro and in reply his whole family members refused for such proposal. It is alleged in the F.I.R that on 20.06.2017, at about 10 AM, complainant alongwith his sister-in-law namely Mst. Zarina W/o Hassan, his daughter Mst. Mariyam and other family members were present at home, where the door was knocked and on opening the same, Moorad Doomro, Gohar Doomro, Sunny Doomro and six others persons, who will be identified if seen, duly armed with deadly weapons forcibly entered into the house and said that we refused their proposal for marriage of Mst. Mariyam and today they will abduct her forcibly and performed her Nikah, whereby in shock complainant party went towards the upstairs, where all accused persons followed them and tried to abduct Mst. Mariyam, but on resistance of Mst. Mariyam, accused persons

thrown her from upstairs due to which she became unconscious. Then all the accused persons by extending threats of dire consequences and using abusive language went away.

3. Learned counsel for the applicants *inter alia* contends that the applicants are innocent and have falsely been implicated in this case due to old enmity as the nephew of complainant namely Ali Muhammad abducted a lady Mst. Moomal and forcibly contracted marriage with her and thereafter one faisla was held by the Neckmard, on such faisla, the nephew of the complainant divorced Mst. Moomal, however, the complainant has involved the applicants / accused in this false case; that there is a delay of more than two and half months in lodging of F.I.R which has not been explained by the complainant; that the instant case does not fall within the ambit of Section 365-B Cr.P.C. He lastly prayed for confirmation of pre-arrest bail.

4. Learned Asst: Prosecutor General while opposing the instant bail application contends that while committing the offence, the applicants have also caused serious injury to the daughter of complainant who has been paralyzed for the rest of her life; that delay has been plausibly explained by complainant party that after getting treatment of the injured girl, they lodged the FIR; that the name of applicants / accused are mentioned in the F.I.R with specific role; as such, they are not entitled for concession of bail.

5. I have considered the arguments of learned counsel for the applicants, learned A.P.G for the State and perused the material available on record.

6. Appraisal of the record reflects that applicants / accused have been specifically alleged to have caused injury to injured Mst. Mariyam and

such allegation also stood confirmed by the injured during her statement recorded under section 161 Cr.P.C. Thus *prima facie* the applicants / accused appear to have committed the alleged offence. As far as the delay in lodging of F.I.R is concerned, the same has been plausibly explained by the complainant that after getting treatment of the injured girl he lodged the F.I.R and such delay in a injury case in view of the facts and circumstances of the case cannot be considered as 'deliberation' particularly where it is claimed by complainant that lodgment of FIR was after treatment which course apparently had taken some time.

7. It appears from the record that in the said incident the injured Mst. Mariyam has lost her spinal cord. The medical certificate reveals that according to MIR record collected from radiologist department, retropulsion of the poster margin of LI vertebra causing marked, thecal pressure and mild cord compression. Abnormal signal intensity is seen in spinal cord, representing cord edema, due to which she became paralyzed for the rest of her life. Record further reflects that Medical Officer while examining her declared the injury as Ghayer Jaifah Munnaqilah 337-F(vi) and kind of weapon hard and blunt substance. It also appears from the record that witnesses have implicated the applicants / accused specifically in commission of the alleged offence which allegation also finds support from other incriminating material available on the record therefore, while making tentatively assessment, *prima facie* appears reasonable grounds to believe that applicants / accused are connected with the offence with which they are charged which does fall within prohibitory clause of Section 497(ii) Cr.PC, hence they are not entitled for concession of pre-arrest bail. Consequently, by my short order dated 11.02.2019, the instant Criminal Bail Application was dismissed and the interim pre-arrest bail already granted to the applicants / accused vide order dated 19.09.2017 was recalled.

## JUDGE

\*Fahad Memon\*