

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

Cr. Bail Application No.S- 230 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

1. For orders on MA 1864/2019.
2. For hearing of main case.

05.03.2019.

Mr. Malik Muhammad Jibran, Advocate for applicants alongwith applicants.

=

**Zulfiqar Ahmad Khan, J:** Through instant Criminal Bail Application, the applicants seek pre-arrest bail in Crime No.91 of 2018, registered at Police Station Gharibabad under Sections 376, 511, 364, 354, 147, 148, 149 PPC.

2. The facts in nutshell are that on 31.10.2018 complainant Mst. Maqsooda Bidi widow of Nawab Panhwar lodged FIR, stating therein that her son Farhan had contracted love marriage with Mst. Kawish d/o Abdul Rasheed, sister of the applicants/accused No.1 to 3 who had subsequently taken Khula from her son. It is alleged that on 28.10.2018 at about 2300 hours complainant alongwith her sons Farhan and Rehan was present in the house when applicants/accused duly armed with weapons entered into the house of complainant and tried to commit Zina with her forcibly and her clothes were torn. She raised cries on which her sons Farhan and Rehan intervened and all the applicants/accused persons beaten her and her sons. Thereafter, on cries PWs Ghulam Jaffer and Waris Shar were attracted and on seeing them applicants/accused by taking her son Farhan went away. Thereafter, FIR was lodged on the orders of Sessions Judge, Mirpurkhas .

3. Learned counsel for the applicants at the very outset contends that the applicants are innocent and have falsely been implicated in this case due to dispute over the matrimonial affairs; that FIR is delayed by three days without any plausible explanation; that the challan has been submitted u/s 365, 452, 148, 149 PPC; that the complainant on account of matrimonial dispute has managed such story; that the allegations are general in nature and there is no specific allegation of abduction of the son of complainant; that all the witnesses are closely related to the complainant; that prior to registration of FIR, the applicant/accused Kashif filed Cr.Misc.Appl.No.797/2018 against the illegal harassment of complainant and her son which was disposed of on 15.09.2018.

5. I have carefully considered the arguments of learned counsel for the applicants and perused the material available on record.

6. A bare perusal of the FIR reflects that applicants/accused are nominated in the FIR with their specific role of trying to commit Zina with the complainant and on resistance her clothes were torn. They also beaten the complainant party on which PWs Ghulam Jaffar and Waris were attracted. Both the PWs have fully supported the version of complainant. Delay in lodging of the FIR has been explained as the complainant approached the Ex-Officio Justice of Peace and on his direction the FIR was registered. Medical evidence also corroborates the version of complainant. From perusal of the order of trial Court it appears that still the son of complainant namely Farhan has not been recovered and there is allegation that present applicants/accused have kidnapped him on the gun point. The offence with which the applicants are charged carries capital punishment hence does not fall within the prohibitory clause of Section 497 Cr.P.C. No any material or document has been placed on record to show malafide on the part of the complainant or her

witnesses particularly Ghulam Jaffar and Waris Shar. Appraisal of the record reflects that applicants/accused are directly involved in the present case.

7. For what has been discussed above, I am of the view that the applicants have failed to make out a case for grant of extra ordinary relief of pre-arrest bail, therefore, the instant pre-arrest bail application having no merits for consideration is hereby dismissed.

8. Needles to mention here that observations made hereinabove are tentative in nature and thus will not prejudice the case of either party in trial.

**JUDGE**

Tufail/PA