

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Bail Application No.1457 of 2018

Date _____ Order with signature(s) of Judge(s) _____

Before: Mr. Justice Nazar Akbar

Applicant : Amanullah son of Bakhat Rovand
Through Mr. Saadat Hassan, advocate.

Versus

The State : Ms. Rahat Ahsan,
Additional Prosecutor General, Sindh.
a/w I/O, Inspector Javed Rahman, PHQ
Garden, Karachi.

Complainant is present in person.

Date of hearing : **25.03.2019**

Date of Decision : **25.03.2019**

ORDER

NAZAR AKBAR, J. Applicant/Accused is facing trial in Session case for offences under sections 465-B PPC arising out of FIR No.318/2018, registered at Police Station Jackson, Karachi. After failing to obtain bail from the trial Court, he preferred instant bail before arrest application and on **26.10.2018** he was granted ad-interim pre-arrest bail by this Court.

2. To be very precise the facts of the case are that Complainant Izzat Gul registered FIR with PS Jackson stating therein that marriage of his daughter namely Sana aged 19 years was performed with Arbaz Khan on 01.06.2018, but rukhsati has not taken place. On 25.09.2018 she left home for going to Madderssa, situated Masjid Quba for recitation of Holly Quran, but she did not come back. Therefore, he searched her daughter but not succeeded. On further enquiry, he came to know that his daughter has been kidnaped/

abducted by one Amanullah (the applicant/accused) with intention to commit zina with her, therefore, the said FIR was lodged against him.

3. Learned counsel for the applicant contended that the abductee wanted to marriage with one Rashid and executed free will at Circuit Court, Larkana and also filed petition before the Circuit Court at Larkana as such the applicant/accused has nothing to do with the alleged offence of kidnapping. He further contended that the applicant/ accused is innocent and no offence has been committed by him, therefore, his case falls within the ambit of further enquiry. He lastly prayed for confirmation of bail of applicant/accused. In support of his contention, learned counsel for the applicant/ accused has relied upon the case of Shahid vs. The State reported in **2017 P. Cr.L.J Note 130.**

4. On the other hand, learned Additional Prosecutor General representing the State has opposed the bail application and contended that the abductee's statement was recorded in the Court Room of Circuit Court, Larkana High Court on the day when she was presented by the present applicant and accused Rashid to avoid investigation of an FIR which was registered on 26.09.2018. They have run away from Circuit Court, Larkana when the Court ordered to record her statement. In her first statement she has categorically nominated the applicant/accused as one of the main culprits who kidnapped her and committed rape with her and forced her to sign documents to give legal cover to their heinous crime of rape with her. She further contended that not only the abductee was subjected to rape but she was also physically assaulted and maltreated and such marks of violence can be found on her body for which other offences under Sections 337-V/345/371-A/511/376/506-B and 34 PPC have been added by the prosecution in the challan as such she prayed to

recall the interim bail order earlier granted to the applicant/accused. In support of her contentions, learned Additional P.G has relied upon the following case laws:-

- i. *Allah Yar vs. The State (2008 P.Cr. 1.J 1451);*
- ii. *Rana Muhammad Arshad vs. Muhammad Rafique and another (PLD 2009 Supreme Court 427).*

5. I have considered the arguments of learned counsel for the parties and perused the record. From perusal of FIR and challan I have observed that:-

- i. From the date of her enticing away from Karachi by the applicant and others on **25.09.2018**, the victim on **10.10.2018** when personally appeared before High Court Circuit Bench at Larkana had instantly made her incriminating statement in the Court Room No.2 at Circuit Court, Larkana;
- ii. Learned counsel for the applicant has read out the entire statement in which she has very elaborately discussed the circumstances in which she has been subjected to a heinous crime and faced torture.
- iii. The accused have run away from the Circuit Bench of High Court at Larkana and that is how she was recovered by the police;
- iv. The medical report and the photographs available in police file clearly indicate marks of torture on her body and even otherwise corroborate offence of zina committed on her.
- v. The applicant/accused is nominated in the FIR with specific role of kidnaping the abductee;
- vi. In her first statement before the police the abductee has stated that she was forced to sign on Nikahnama for her alleged marriage with the co-accused Rashid;

6. In view of the above, since the applicant has made a heinous offence, therefore, no case for exercise of extra ordinary relief of bail before arrest is made out. There appear reasonable grounds for believing that he has been guilty of an offence punishable under Sections mentioned in the FIR and the challan.

7. The cruxes of the above discussion is that keeping in view the above facts and discussion the applicant is not entitled to pre-arrest bail at this stage and, therefore, instant bail application is dismissed and interim bail granted on **26.10.2018** is hereby recalled. If the accused has not surrendered himself before the police voluntarily, once copy of this order is delivered to the trial Court, appropriate action may be taken by trial Court in accordance with law.

8. The observations made hereinabove are tentative in nature and would not influence trial Court while deciding the case of the applicant/accused.

JUDGE

Ayaz Gul