

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.517 / 2019

Applicant: Mst. Raheela Rajesh through Mr. Zahirullah Khan Advocate.

Respondent: The State through Mr. Fahim Hussain Deputy Prosecutor General

Date of hearing: 03.06.2019.

Date of order: 03.06.2019.

ORDER

Muhammad Junaid Ghaffar, J. This bail application has been filed by the present Applicant seeking post arrest bail in FIR No.701/2018 registered under Section 365-B PPC at P.S. Shakra-e-Faisal, Karachi, for alleged abduction of Angel Samson, Aged about 16 years, as the last bail application filed before the Additional Sessions-III, Karachi, East stands dismissed vide order dated 12.3.2019.

I have heard the learned Counsel for the Applicant as well as the Deputy Prosecutor and my observations are as under:-

- a) It is an admitted position that the present Applicant, at the time of incident of abduction as alleged, was out of Country, being in Dubai. Such is an admitted position; however, the case of the prosecution is to the effect that the Applicant was in constant touch with the main accused through telephone as per the statement of the abductee recorded under S.164 Cr.P.C.
- b) It is not in dispute that the present Applicant is the wife of the alleged main accused and naturally she could be in contact with her husband; notwithstanding the fact that

he is involved in some crime. From perusal of the Statement of the abductee as above, it does not decipher as to how with such authority, the present Applicant has stated that the Applicant was in touch with the main accused on WhatsApp and she was giving instructions and passing on information about registration of FIR etc. This at least makes it a case of further inquiry against the involvement and guilt of the present Applicant.

- c) Though subsequently after registration of the FIR other penal provisions including s.376, 493-A, 371-A, 420, 109 & 34 of Pakistan Penal Code have also been added through supplementary charge sheet; but again this is based on the Statement of the accused to the effect the present Applicant is the master mind of the whole case.
- d) It is also not in dispute that the Applicant and the main accused (her husband) are immediate relatives of the abductee and her family, and strangely, they have now withdrawn from their case, whereas, the learned trial Court has not appreciated this issue on the ground that the allegations in the FIR are not compoundable; hence, such compromise is of no effect. This may be true, but it needs to be appreciated that insofar as the case of the present Applicant is concerned, she has been implicated purely on the basis of Statement of abductee under s.164 Cr.P.C., as there was no other material against her at the time of registration of the FIR, and once the Complainant has compromised or withdrawn from its claim, then at least, to the extent of the present Applicant, a case for further inquiry is made out, and the concession of bail cannot be denied in the given facts and circumstances.

In view of hereinabove discussion, the present Applicant has made out a case for grant of post arrest bail and by means of a short order dated 03.06.2019 she was granted bail on furnishing surety in

the sum of Rs. 200,000/- with P.R. Bond in the like amount to the satisfaction of the trial Court and these are the reasons in support thereof. However, it is needless to observe that these observations are only relevant to the facts of the case of the present Applicant who was at the relevant time out of Country and are not to be applied to the case of other co-accused who are to be dealt with in accordance with the facts of their case and in accordance with law.

J U D G E

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