

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 734 of 2018

Date	Order with signature of Judge
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For hearing of bail application.

Dated of hearing: 12.06.2018

Date of Order: 13.06.2018

Haji Ali Akber, advocate for applicant/accused

Mr. Zahoor Ahmed Shah, D.P.G

Kausar Sultana Hussain, J:- Through instant Bail Application, applicant/accused Kashan Lodhi S/o Nazir Ahmed Lodhi seeks his release on post arrest bail in Crime No. 70/2018, registered at PS Saeedabad, Karachi under Section 365-B/376 PPC. The bail plea was raised by him before the learned trial Court but his request was turned down vide order dated 19.04.2018. The case has been challenged by the police and the same is now pending for trial before the Court of learned Vth Additional Sessions Judge, Karachi (The State versus Kashan Lodhi).

2. As per FIR/charge sheet, the allegation against the applicant/accused is that on 22.02.2018 he kidnapped the daughter of complainant namely Laiba and committed her rape.

3. At the very outset the learned counsel for applicant/accused argued that applicant/accused is innocent and has been falsely implicated in this case by the complainant on the instigation of one Muhammad Hanif, who is on duty police official and resident of same locality. Per learned counsel the alleged abductee stated in her 161 & 164 Cr.PC that she was abducted from a public place i.e. Bus Stop, but no hue cry was made by her, which makes this case highly doubtful hence needs further inquiry. He next contended that there is no eye witness, who could say that he had seen the applicant/accused while kidnapping the daughter of complainant or leaving her back. He further contended that applicant/accused is behind the bars for last three months but neither charge has been framed nor

DNA report has been submitted. He also contended that section 376 does not attracts against the applicant/accused, further no marks of violence/injury are available on the body of victim, which could prove the allegation leveled against applicant/accused. He lastly contended that there is inordinate delay of one day in lodging of FIR, which creates doubt and case need further inquiry. Learned counsel for applicant/accused prayed for grant of present bail application. In support of his arguments the learned counsel for applicant/accused has relied upon the case laws reported as *(i) 2013 P.Cr. L.J 1647 & (ii) 2017 SCMR 366*.

4. Conversely, on the other hand, learned D.P.G for the State vehemently opposed the bail application on the ground that the abductee/victim while recording her 161 & 164 Cr.PC statements has fully implicated the applicant/accused with the commission of present crime, therefore, he is not entitled for concession of bail, therefore, present bail application may be rejected.

5. I have heard the arguments and perused the material available on record. From scanning of record it reveals that alleged incident of kidnapping was occurred on 22.02.2018 at about 1800 hours, however, the FIR was lodged on 23.02.2018 at about 1500 hours, while the medical examination of victim/abductee was conducted on 26.02.2018. More particularly, as per medical report of the victim, available on record, no injury was found on the body of victim. Furthermore, DNA test report dated 05.03.2018 is not positive. As per statement of victim/abductee, allegedly, she was abducted from a public place, however, she has not made any hue and cry to save her.

6. In view of foregoing discussion, the case of the applicant/accused falls within the ambit of further inquiry. Accordingly, present bail application is granted and the applicant/accused is admitted to bail subject to furnishing solvent surety in the sum of Rs.2,00,000/- (Rupees Two Hundred Thousand Only) for the satisfaction of learned trial Court.

7. Needless to mention here that the above observations are tentative in nature and trial Court shall not be influenced in any manner whatsoever.

Sajjad Ali Jessar /PA