

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No. 520 of 2018
Date _____ Order with Signature of the Judge _____

For hearing of bail application.

Heard on : 11.06.2018

Decided on : 13.06.2018

For Applicant : Mr. Riaz Ahmed, Advocate.

For State : Ms. Seema Zaidi, D.P.G alongwith SIP M. Tariq of PS K.I.A, Karachi.

Kausar Sultana Hussain, J.:- On dismissal of bail Application No. 1943 of 2016 by the Incharge Judge/IXth Additional Sessions Judge, Karachi-East, vide order dated 08.07.2017, the applicant Pervaiz Akhter has approached this Court, by filing instant bail application under Section 497 Cr.P.C, for post pre-arrest bail in case Crime No. 726 of 2016, under Sections 496-A, 376/114/34 PPC registered at Police Station Korangi Industrial Area, Karachi.

2. The grievance of the complainant Mst. Maqsood Illahi as depicted by her in FIR is that she is temporarily residing with her son Fayaz Ahmed at the address, as mentioned in column No. 2 of FIR and is permanent resident of Farerabad Karorpka, Tehsil Karorpaka, District Lodheran, Punjab. On 05.08.2016 at 09:30 hours her son Fayaz Ahmed went to his job and she was also not available at home. However, her daughter-in-law namely Madina Fayaz was available at home alongwith her children namely (1) Shumaila Fayaz, (2) Nagina Fayaz, (3) Tahira Fayaz (4) Ali Fayaz. When her son Fayaz Ahmed returned back from job at about 2200 hours, he found that his wife Madina Fayaz and children were not available at home and the articles of house were misplaced so also cash Rs.45,000/- and gold ornaments 1 ½ tola were also missing. After that they tried to search out Madina Fayaz and children and finally came to know that one of nearest relatives of Madina Fayaz namely Meraj came at their house alongwith his 2/3 other persons

and kidnapped her daughter-in-law Madina Fayaz alongwith children with intent to commit Zina and they took cash amount and gold ornaments.

3. It is inter-alia contended by the learned counsel for the applicant/accused, that the applicant/accused is innocent and has falsely been implicated in this case due to malafide intention and ulterior motives of complainant. Per learned counsel for applicant/accused there are major contradictions in the statements of abductee/victim recorded under section 161 Cr.PC and 164 Cr.PC as also she has also contradicted her version in her deposition recorded before the learned trial Court, which creates doubt which goes in the favour of applicant/accused, even at bail stage. Learned counsel for applicant/accused also contended that co-accused Mukhtiyar Ali is the real brother of victim/abductee and he had lodged the FIR bearing No.25 of 2017 u/s 365-B/342-B/376 PPC at PS Dhabeji District Thatta against the complainant's sons namely Fayaz and Ghulam Abbasi and in said FIR the present applicant/accused is one of the witnesses. Learned counsel for applicant/accused further argued that in order to save her sons in above said crime and with malafide intention and ulterior motives the complainant has implicated the applicant/accused in present case. Per learned counsel for applicant/accused there is inordinate delay of 7 days in lodging of the FIR, which creates serious doubt in the prosecution story. Per learned counsel for applicant/accused the medical report of the victim does not support the version of the complainant. He further contended that both the parties are closed relatives and the present FIR is counter blast of above said FIR, wherein applicant/accused is witness. He lastly contended that co-accused Meraj has been granted bail by the learned trial Court and the case of applicant/accused is also on same footings, hence he is also entitled for bail on rule of consistency. He prayed for grant of bail. In support of his arguments, the learned counsel for applicant/accused has relied upon "2006 MLD 505 Lahore".

4. Conversely learned D.P.G has opposed the grant of bail, as according to her the applicant/accused alongwith co-accused persons and committed rape of abductee/victim. She also contended that abductee/victim has fully implicated the applicant/accused in her statements recorded u/s 161 Cr.PC as well as 164 Cr.PC. She also contended that four witnesses, including abductee/victim have been examined by the learned trial Court and they all have fully supported prosecution story. Learned DPG prayed that bail of co-accused persons namely Mukhtiyar Ali and Muhammad Nasir Khan have already been dismissed by this Court, vide order dated 27.10.2017, therefore, present bail application may also be dismissed.

5. I have heard the arguments and also perused the available material on record. The abductee/victim in her 161 & 164 Cr.PC statements has fully implicated the applicant/accused in this crime alongwith co-accused persons. More particularly, the medical evidence, available on record, is also against the applicant/accused. As far as the delay in lodging FIR is concerned, the same is quite natural, as the victim alongwith her four children was kidnapped on 05.08.2016 and the family members were searching them, who were recovered on 20.08.2016. The false implication of applicant/accused by the victim without any cogent reason and sufficient cause has not been asserted. Consequently, the present bail application, having no merits, is hereby dismissed.

Sajjad Ali Jessar

J U D G E