

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.674 of 2020

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application

08.06.2020

Mr. Javed Anwar, advocate for the applicant.
Ms. Rahat Ahsan, Addl.P.G. Sindh.
Mr. Jan Shahid Iqbal, Advocate for Complainant.
SP Muhammad Tarqi Nawaz, Investigation.
SIP Shakeel Shaikh, I.O.

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1. Through instant bail application, applicant/accused seeks bail after arrest in **FIR No.206/2019**, under **Section 365-B/34 PPC** registered at police station New Karachi. Earlier the applicant/accused approached the IIInd Addl. Sessions Judge, Karachi Central, for post arrest bail, which was declined vide order dated **26.03.2020**. Thereafter, the applicant approached this Court for grant of post arrest bail.

2. Brief facts of the prosecution case disclosed by the complainant namely Muhammad Anwar-ul-Haq sons of Allah Buksh, resident of House No.L-1021 11-E New Karachi that I am contractor and originally residing at District Rahim Yar Khan and now residing at Karachi since 18 years, 20/25 days ago my wife went to Punjab and she came back at Karachi alongiwth my niece namely Kauser Shaber to work at house as my wife usually remain ill, on 15.07.2019 some peoples i.e. Naveed, Zeenat Bibi, that she is sister of the Naveed and Mst. Shahnaz that is aunty of the Naveed came at house and they disclosed that they came at Karachi for shopping due to the marriage of the sister, and they stay at my house on 16.07.2019 these all peoples gone for shopping alongwith my niece Kauser

Shaber and at about 12000 hrs. at night I came from my work and my wife informed me that all these peoples not come from the shopping, then I call Naveed at his cell No.0304-1781457 but failed to contract thereafter I continuously tried contact but could not succeeded to contract and from the said date his cell phone is off. I have doubt that Naveed with the help of his sister Zeenat and his aunty Shahnaz kidnapped my niece Kauser Shaber, aged 17/18 years for intention to commit Zine.

3. Learned counsel for the applicant contended that FIR was lodged with delay of nine days and Zina was alleged by the abductee in her 164 Cr.P.C statement. Learned counsel also submitted that abductee was not recovered from the custody of present accused but complainant himself produced her in Court. Learned counsel further argued that cell number mentioned in FIR did not belong to accused. Learned counsel further contended that applicant/accused is innocent and has falsely been booked in this crime by the complainant due to malafide intention and ulterior motives, as neither he made any offence nor done any illegal act, therefore, the case requires further inquiry, therefore, applicant / accused is entitled for concession of bail.

4. Learned Addl. P.G opposed the bail application contending that the abductee has fully implicated the present applicant/accused as well as other co-accused for abduction and committing rape with her. It was further submitted that after arrest of present accused his parents released the abductee on the promise that she would not depose against him.

5. I have heard the arguments and perused the record and I have noticed as under:-

- i. The FIR was lodged on 26.7.2019 for alleged offence of kidnaping and zina after delay of more than 09 days without any explanation despite the fact that the accused has been nominated in the FIR.
- ii. The medical report also suggested that the statement made by the victim under Section 164 Cr.P.C after voluntarily appearing before the Magistrate is apparently false and incorrect.
- iii. To be precise the police paper shows police has not recovered the victim from the custody of the applicant.
- iv. The SP present in Court states that I.O is trying to seek blood of the victim since November, 2019, that is the last more than seven months, but the victim is not cooperating to provide blood sample.
- v. Applicant/accused is behind the bars for more than nine months and is no more required for further investigation; therefore, no useful purpose would be served by keeping the applicant behind the bars for indefinite period.
- vi. There is no CRO against the present applicant and this is only the case in which applicant has been arrested.

6. In view of the above, the applicant / accused is admitted to bail subject to furnishing solvent surety in the sum of **Rs.1,00,000/-** and P.R bond in the like amount to the satisfaction of trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

SM

JUDGE