

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-482 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections.
2. For hearing of main case.

24.02.2021.

Mr. Meer Ahmed Mangrio, Advocate along with applicants.
Ms. Sobia Bhatti, A.P.G for State.
Mr. Junaid Jabbar Belai, advocate for complainant.
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Irshad Ali Shah J.- It is alleged that the applicants in furtherance of their common intention subjected PW Sajid Ali boy of 14/15 years of age to unnatural lust, for that the present case was registered.

2. The applicants on having been refused pre-arrest bail by learned Additional Sessions Judge-I, Kotri have sought for the same from this Court by way of instant application under section 498 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant in order to satisfy his dispute with them over plot; the FIR has been lodged with delay of about (21) days and no mark of violence was found on the person of the victim on his medical examination. By contending so, he sought for pre-arrest bail for the applicants on point of further enquiry and malafide. In support of his contention he relied upon cases of *Muhammad Sajiq vs The State (1996 P.Cr.LJ 680)* and *Asghar alias Nannha vs The State (2000 MLD 910)*.

4. Learned Assistant Prosecutor General for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the

applicants by contending that the offence alleged against them is affecting the society and DNA report fully implicated the applicant Zahid in commission of incident.

5. I have considered the above arguments and perused the record.

6. Applicants Mutaza and Ali Shahbaz have not found to be contributor of semen stain/sperm fraction as per DNA report, therefore, their involvement in present case being doubtful obviously is calling for further inquiry, consequently, the interim pre-arrest bail already granted to them is confirmed on same terms and conditions.

7. The case of applicant Zahid is distinguishable. He is named in FIR. The delay in lodgment of FIR is explained plausibly and as per DNA report he has been found to be contributor of semen stain/sperm fraction, therefore, there appear reasonable grounds to believe that he is guilty of the offence with which he is charged. No case for grant of pre-arrest bail to him is made out; consequently, the order whereby he was admitted to interim pre-arrest bail is recalled and vacated.

8. The case law which is relied upon by learned counsel for the applicants so far case of applicant Zahid is concerned is on distinguishable facts and circumstances. In case of *Muhammad Sadiq (supra)* there was no DNA report. In case of *Asghar Ali alias Nannha (supra)* the applicant was found to be innocent on successive investigation. In the instant case applicant Zahid has not been found to be innocent by the police on investigation.

9. The instant bail application is disposed of accordingly.

JUDGE

Ahmed/Pa.