

**IN THE HIGH COURT SINDH, CIRCUIT COURT, LARKANA**

**Criminal Bail Application No. D-07 of 2021**

**Present:**

**Justice Zafar Ahmed Rajput**

**Justice Adnan-ul-Karim Memon**

Applicants : (1) Ghulam Mustafa s/o. Pehlwan Khoso  
(2) Abdul Hameed s/o. Meeral Khoso, through  
Mr. Riaz Hussain Khoso, Advocate.

Respondent : The State, through Mr. Ali Anwar Kandhro,  
APG.

Complainant : Muhammad Waris s/o. Bhai Khan Khoso,  
through Mr. Nazir Ahmed Kolachi, Advocate.

Dates of hearing : 06.07.2021 & 08.07.2021  
Date of order : 08.07.2021

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**ORDER**  
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**ZAFAR AHMED RAJPUT, J:-** Through instant criminal bail application, applicants/accused Ghulam Mustafa s/o. Pehlwan Khoso and Abdul Hameed s/o. Meeral Khoso seek post arrest bail in Crime No. 90 of 2021, registered at P.S Rehmatpur, Larkana, under Section 365-A, P.P.C. r/w Section 6/7 of A.T.A. Act, 1997. Their earlier bail application bearing No. 08 of 2021 was heard and dismissed by the Special Judge, Anti-Terrorism Court, Larkana vide order dated 04.03.2021.

2. Briefly stated, the facts of the case are that, on 12.09.2020, complainant Muhammad Waris lodged the aforesaid F.I.R. alleging therein that on 01.07.2020 his son Ayaz Ahmed Khoso, aged about 22 years, left the house at 5.00 p.m. for two hours but he did not return till late night, therefore, he and his wife made search and reported the incident of missing his son at police station Rehmatpur and Allah Abad where such N.C was lodged. On 19.08.2020, the complainant took Holy Quran and paid round in town beseeching that his son may be returned to him in the name of Holy Quran

on that (1) Sobdar Khoso (2) Ghulam Mustafa Khoso (3) Abdul Hameed asked him to take back Holy Quran and they would return back his son in few days. On their promise, he returned back to home and, on 24.08.2020, made such application to S.S.P., Larkana against the above-named accused persons, who forwarded the same to S.H.O. Rehmatpur but his grievance was not redressed. It is further alleged that the said accused being annoyed on filing application against them told him that his son would be returned on payment of ransom of Rs. 2,000,00/=, else his dead body will reach home. Since, the S.H.O., P.S. Rehmatpur did not lodge F.I.R., he (complainant) filed an application before Sessions Judge, Larkana and on 12.09.2020 he appeared at police station along with an order passed by VI-Addl. Sessions Judge, Larkana, and then F.I.R. was lodged.

3. The learned counsel for the applicants/accused has mainly contended that the applicants/accused are innocent and have falsely been implicated in this case; that there is inordinate delay of more than two months in lodging of F.I.R.; that there is no eye-witness of the alleged abduction of the son of complainant; that the allegations against the applicants are vague, absurd and baseless; that even during the course of investigation, police failed to collect any tangible evidence to connect the applicants with the commission of alleged offence; that no reasonable grounds exists to believe that the applicants have committed the alleged offence; as such, they are entitled for the concession of bail on the ground of further inquiry.

4. Conversely, learned counsel for the complainant has vehemently opposed the application on the grounds that the complainant' son has yet not been recovered and it transpires from the tentative assessment of the evidence available with the prosecution that the applicants are prima-facie involved in the commission of alleged offence and since no case of further

enquiry has been made out; the applicants are not entitled for the concession of bail.

5. The learned APG while adopting the arguments of the learned counsel for the complainant has also opposed this bail application.

6. We have heard the learned counsel for the applicants, complainant and APG and have perused the material available on record.

7. It appears that after lodging of F.I.R., the applicants voluntarily surrendered before the trial Court by filing pre-arrest bail application whereby they were admitted to interim bail, vide order dated 30.11.2020, but later their bail application was dismissed and they were remanded to jail, vide order dated 17.02.2021. The applicants preferred post-arrest bail and the same was also dismissed by the trial Court, vide order dated 04.03.2021; hence, the applicants are in judicial custody since 17.02.2021.

8. The contents of F.I.R. are indicative of the facts that the complainant's son had left his house on 01.07.2020 saying that he would return back within two hours but he has not been traced out till date. S.S.P., Larkana has constituted a J.I.T. for his recovery. The applicants and the complainant belong to same Khosa tribe and admittedly they are relatives *inter se*. There is no eye-witness of the alleged abduction of complainant's son and demanding of ransom by the applicants. There is no criminal record of the applicants suggesting that they were ever involved in any criminal case. No incriminating material *prima facie* is available with prosecution to connect the applicants with the alleged offence, except bare allegation in the F.I.R. Mere assertion of the complainant that the applicants had assured him that they would return his son back in few days and that they demanded ransom, without positive evidence to substantiate same, is of no consequences.

9. In view of the above, the role of applicants with regard to commission of alleged offence requires further enquiry as envisaged under sub-section (2) of Section 497 Cr. P.C. We; therefore, admit the applicants to bail subject to their furnishing solvent surety in the sum of Rs.1,00,000/- (Rupees One Lac only) each and P.R. Bond in like amount to the satisfaction of the trial Court.

10. 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 applicants/accused on merits. However, in case the accused misuse the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving them notice, in accordance with law.

JUDGE

JUDGE