

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD.

Cr. Bail Application No.S-542 of 2022

Applicants: Barkat Ali and others through
Mr. Manzoor Ahmed Panhwar
Advocate.

Date of hearing: 28.04.2022

Date of decision: 28.04.2022

ORDER

Zulfiqar Ahmed Khan, J: Through this bail application, the applicants /accused Barkat Ali, Muhammad Rakhail, Deedar Ali, Fayaz Ali, Basit Ali and Kashif Ali @ Munno @ Munawar seek pre-arrest bail in Crime No. 48/2022, registered at Police Station, Sehwan for offences under sections 365-B, 496-A, 506(2) and 34, PPC. Earlier on approach their bail application was dismissed by learned IInd. Additional Sessions Judge, Kotri vide order dated 26.04.2022.

2. Precisely facts of the FIR are that on 20.04.2022 complainant Ghulam Shabir lodged report at PS Sehwan alleging therein that accused Barkat is his neighbor and at about two months back, sister of complainant Mst. Sania aged about 29 years complained him that accused Barkat Burdi is teasing her for making friendship, on which he complained to the notables, thereafter accused Barkat Burdi became annoyed and on 22.03.2022, when he along with his sister Mst. Sania and brother-in-law Ghaffar left for selling the cloths as per routine, reached at about 10.00 am at Gulab Shah near fort Rest House where they saw one white color Vigo came from Qureshi Bridge Sehwan side and stopped near them and out of that Vigo, all accused persons having pistols in their hands laid down and aimed upon them and told them be silent, then accused Barkat Burdi and Munoo @ Munawar Burdi forcibly kept his sister and set into Vigo, she cries but they all went away by saying that don't complaint against them, otherwise they will kill him and his sister. They being poor due to fear or weapons remain silent and then all the accused fled away with their Vigo. Thereafter complainant party narrated the facts to the notables persons of Burdi community, but they kept them on false hopes. On 20.04.2022 when they were present in the house she came in weeping condition being shoeless and disclosed that accused Barkat Burdi forcibly on show of weapons perform Nikah and she while taking advantage came

there and he then appeared at police station and lodged report that above named accused persons with their common intention and on the force of weapons Barkat Burdi after committing Zina kidnapped his sister Mst. Sania and forcibly perform Nikah with her and issued threats to them not to lodge any complaint.

3. Learned counsel for the applicants, at the very outset, submits that the applicants being innocent have been falsely involved in this case by the complainant party with malafide intentions and they have not committed the alleged offence; that there is delay of about 28 days in lodgment of the F.I.R without any plausible explanation; that alleged abductee Mst. Sania initially performed Nikah with the present applicant Barkat Ali through free will and wish on 25.03.2022 before Nikah Registrar at Naushehro Feroze and after passage of few days due to misunderstanding and out of Court private faisla the applicant Barkat Ali pronounced divorce deed on 19.04.2022 with consent of the abductee on the intervention of notables under Muhammadan Law and both parties signed the divorce deed; that after pronouncement of divorce deed, applicant Barkat Ali handed over custody of abductee Mst. Sania at police station to the complainant party in presence of witnesses, later on, complainant party after consultation with each other got recorded statement of alleged abductee Mst. Sania under section 164, Cr.P.C in which she implicated all the accused persons in order to take revenge from them; that all applicants are respectable persons while applicants No. 2 and 3 are primary school teachers and applicant No.4 is male nurse posted at Abdullah Shah Institute, Sehwan and they apprehend their imminent arrest at the hands of police after dismissal of their bail application by the trial Court. He, therefore, requests that interim pre-arrest bail may be granted to the applicants.

4. I have heard learned counsel for the applicants and have gone through the material available on record.

5. Record reflects that the applicants are nominated in the FIR with specific role; that alleged abductee Mst. Sania appeared before the concerned Magistrate and her statement under section 164, Cr.P.C. was recorded, in which she involved the present applicants and stated that she was forcibly abducted and on the force of weapons married with applicant Barkat Burdi. Per learned counsel, he has produced nikahnama and free will affidavit and divorced deed dated 19.04.2022 and stated that alleged

abductee was divorced by her accused Barkat Burdi, as such, she implicated the applicants in her statement u/s 164, Cr.P.C, but the learned counsel has failed to show any valid reason that as to why divorce pronounced by the accused Barkat to the alleged abductee less than one month of alleged marriage and what was the circumstances. The applicants appear to be influential persons and they allegedly issued threats to the complainant party to restrain them from legal proceedings. The matter is under investigation. Nothing is available on record to show that applicants have been involved by the complainant party on the basis of enmity or any malafide. of that divorce. In such situation, it would be pre-mature to say that the present applicants/accused being innocent have been involved in this case falsely. It is true that this type of offence is said to be against the society. This alleged offence is serious in nature and sensational in character and shocking to the public morality, hence does not reserve any leniency. During course of arguments, learned counsel for the applicants has failed to point out any enmity with the complainant party, therefore, in my tentative view that none indeed could involve an innocent person at the cost and hour of an abduction of a girl. No malafide is apparent on the record, which may indicate that the present applicants have been involved in this case falsely either by the police or by the complainant party. Even otherwise, in the absence of any apparent malafide on the part of complainant or the police, the applicants cannot claim extra-ordinary equitable concession of pre-arrest bail in a criminal case of abduction wherein one young girl was abducted and married to any one applicant and thereafter divorced her

after less than one month.

6. In view of above discussion, I am of the humble view that the applicants have failed to make out their case for pre-arrest bail at this stage which is extra-ordinary in nature therefore, this criminal bail application is dismissed in limine alongwith all pending applications.

7. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

