

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1255 of 2020

Date	Order with signature of Judge
------	-------------------------------

For hearing of bail application

27.11.2020

Mr. Allah Bux Narejo, Advocate for applicant.

Mr. Aamir Jamil, Advocate for complainant.

Mr. Talib Ali Memon, APG.

-X-X-X-X-

Omar Sial, J: Muhammad Tayyab, the applicant, has sought pre-arrest bail in crime number 196 of 2020 registered under sections 376, 511, 379, 506 and 420 P.P.C. at the Nazimabad police station. Earlier, his application seeking bail was dismissed by the learned 2nd Additional Sessions Judge, Karachi Central on 17.8.2020.

2. A brief background to the case is that the aforementioned FIR was lodged by Zara Khalid on 30-7-2020 reporting an incident that had occurred on 15.3.2020. She recorded therein that she had become friendly with the applicant after having met him on the internet. Romance blossomed between the two and marriage was on the cards. According to Zara, Tayyab borrowed Rs. 200,000 from her; raped her twice, withdrew Rs. 40,000 from her ATM in one go; and also took another Rs. 800,000 from her. All these activities seem to have taken place in a period of around 1 year. It appears that marriage between the two did not transpire and Zara ended up filing this FIR.

3. I have heard the learned counsel for the applicant as well as the learned counsel for the complainant and the learned APG. My observations are as follows.

4. The love affair between the applicant and the complainant is not denied. There is admittedly no evidence of the three different amounts of money allegedly given by the complainant to the applicant; there is not even a record from the bank regarding the withdrawal from the ATM; no explanation could be provided as to how an amount of Rs. 40,000 was withdrawn from an ATM in one

go when the withdrawal limit is a lot lower; it is an admitted fact that the applicant declined to be medically examined in order to corroborate her rape claim; there is nothing on record to show that the applicant and the complainant had checked into a guest house in October 2019 when the complainant says she was raped for the first time. I find it unnatural that after being raped in October 2019, the complainant continued to lend money to the applicant and continued to see him and continued to hope that marriage was imminent. While the allegations raised by Zara will have to be proved at trial after evidence is produced, at the moment there is nothing on record, apart from a sketchy and confusing FIR that would connect the applicant with the crime. Malafide on the part of the complainant cannot be conclusively ruled out at this preliminary stage because of obvious reasons. The case of the applicant is one of further inquiry.

5. Above are the reasons for my short order of 5-11-2020.

JUDGE