

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**Cr. Bail Application No. 1544 of 2021**

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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For hearing of bail application.

**22<sup>nd</sup> November, 2021**

Syed Zia Hussain Shah, Advocate for applicant.  
Ms. Asia Munir, Advocate for complainant.  
Mr. Abrar Ali Khichi, Addl.P.G. a/w SI Gulfaraz Awan.

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Omar Sial, J: Mohammad Shahid has sought post arrest bail in crime number 147 of 2020 registered under section 376-B P.P.C. at the Pakistan Bazar police station in Karachi. Earlier, his application seeking bail was dismissed on 14-7-2021 by the learned 10<sup>th</sup> Additional Sessions Judge, Karachi West.

2. A lady by the name of Anamta lodged the aforementioned F.I.R. on 13.5.2020 reporting an incident which had occurred the previous day. She recorded that she was a married girl living with her husband. On 12-5-2020 while she was walking towards her mother's home, two men on a motorcycle intercepted her. One of the men pulled out a pistol at her and forced her to sit on the motorcycle in between the two men. She was blindfolded and a pistol aimed at her back. Some distance away she was shifted to another motorcycle. Later, she was allowed to remove the blindfold and taken to a house. Three other men were present there. She was gang raped by three men whereas a fourth molested her body. A little while later another man came who asked the others to take her to some other place. There were five men standing in the courtyard of the house. Two of them seated her on a motorcycle, once again in the middle and drove off whereas three other men on 2 separate motorcycles accompanied the motorcycle to a park where a person called "Ustad" was present. It appears that Ustad also accompanied the girl and the accused persons. She was again taken on the motorcycle but somewhere along the way she jumped off the motorcycle and started shouting. Members of the public gathered and tried to apprehend the accused but the accused managed to escape.

3. The learned counsel for the applicant has argued that the applicant is innocent; that there was no mark of violence on the victim; that the DNA report is in the negative; that the applicant is not named in the F.I.R.; that there is a delay in the lodging of the F.I.R.; that the medical evidence does not support the allegations of the victim; that the corona pandemic was prevalent at the time the incident is said to have occurred so it was not conceivable that three persons on a motorcycle could move around so easily without being stopped; that the victim has an ill will with the applicant; Learned Additional Prosecutor General had opposed the grant of bail.

4. I have heard the learned counsel for the applicant as well as the learned Additional Prosecutor General and perused the record with their able assistance. My observations and findings are as follows.

5. Prima facie the story narrated by the victim in the F.I.R. sounds true. No person has been named in the F.I.R. which effectively excludes the allegation of ill will against the applicant. In most incidents of such a nature, the perpetrators are not known to the victim therefore the argument that the applicant was not named in the F.I.R. carries little weight. A one day delay in the lodging of the F.I.R. is also prima facie justified in incidents of a similar nature.

6. The victim was initially examined on 14-5-2020 by the MLO of Abbasi Shaheed Hospital and as she was a married woman not much value to the case was added by that report. Vaginal swabs were however taken and sent for analysis to the Sindh Forensic DNA and Serology Laboratory. The laboratory in its report dated 26-8-2020 opined that the vaginal swab contained a sperm fraction of at least two individuals. While the laboratory with certainty has opined that the sperm of a co-accused in the case i.e. Mohammad Ziauddin was found from the vaginal swab. The report eliminated the present applicant as being one of the contributors of the sperm found in the vaginal swab. Be that as it may, the narration of how the incident unfolded, suggests that there were at least six men prima facie involved in the incident out of which three were said to have raped the victim whereas one felt her out and the others aided and abetted the whole incident. There is also a sixth accused named "Ustad". The allegation of rape is on three men. An identification parade was held in which the victim has identified the applicant as being one of the persons who was present all along in the

unfortunate episode. The truth of the matter will be uncovered at trial after evidence is led. The bail applications of two co-accused Aqib Khan and Mohammad Imran have already been dismissed and I see no reason to take a lenient view for the applicant.

7. The bail application is dismissed.

JUDGE