

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Criminal Bail Application No.S-186 of 2023

Date	Order with signature of Judge
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1. For orders on office objection at flag `A`
2. For hearing of Bail application

Date of hearing: **14.06.2023**

Mr. Mujahid Hussain Phulpoto, Advocate for the Applicant
Mr. Manzoor Hussain Aradin, Advocate for Complainant
Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General, Sindh

ORDER

Amjad Ali Bohio, J:- After the dismissal of his Criminal Bail Application No. 212/2023 by the Court of Additional Sessions Judge-IV, Khairpur, via an order dated 07.02.2023, the applicant, Alan Khan Shambani, has submitted an immediate bail application in Crime No. 44/2022. The application pertains to the offenses under Sections 506/2, 496, and 496-B of the Pakistan Penal Code, registered at Sorah Police Station.

2. According to the contents of the First Information Report (F.I.R.) lodged on 04.06.2022, the complainant reported that his daughter, Mst. Sain, also known as Sanoo, was abducted on 06.04.2022. The individuals involved in the abduction were identified as the applicant/accused Alam Khan, Abdul Haq, Abdul Raheem, Altaf (all sons of Atta Muhammad Shambani), and an unknown perpetrator. The complainant, Hubdar, registered the F.I.R. under Crime No.33/2022, charging the accused with the offense under Section 365-B of the Pakistan Penal Code. Later, the police successfully recovered the complainant's daughter, who provided a statement under Section 164 of the Code of Criminal Procedure, where she stated that she had willingly gone with her maternal uncle, the applicant/accused Alan, and that nobody had kidnapped her. Consequently, the case was dismissed and classified as canceled. Subsequently, the complainant received an envelope by post, which stated that his daughter had unlawfully entered into a marriage contract (Nikah) with her maternal uncle, the applicant Alan Khan. In response, the complainant, accompanied by witnesses (PWs), approached the residence (Otaq) of the applicant/accused Alan Khan to inquire about the alleged Nikah. However, they

were met with anger and faced threats of severe consequences, as the accused individuals were armed with weapons. Following this incident, the complainant proceeded to lodge the aforementioned F.I.R.

3. I have heard the arguments presented by the learned counsel representing the applicant/accused, the complainant, and the learned Deputy Prosecutor General (DPG).

4. The learned counsel representing the applicant/accused argues that the complainant lodged the F.I.R. with malicious intent. He asserts that Mst. Sain, also known as Sanoo, was the daughter of Mst. Rahat, who has since passed away. The applicant/accused, Alan Khan, is not the real maternal uncle of Mst. Sain @ Sanoo, as her father had contracted a marriage with Mst. Laila, who is the real sister of the applicant/accused. The counsel argues that the complainant lodged the aforementioned F.I.R. in connivance with the police, with malicious intent to charge the accused under Sections 496 and 496-B of the Pakistan Penal Code. Furthermore, the counsel highlights that a Fatwa issued by Jamia Darul-Huda Theri supports the marriage of Mst. Sain @ Sanoo with the applicant/accused. They claim that the complainant maliciously lodged the F.I.R. despite the supportive Fatwa.

5. The learned counsel representing the complainant and the Deputy Prosecutor General (DPG) for the State have expressed their opposition to the bail application. They argue that the marriage (Nikah) between the applicant and the daughter of the complainant is illegal. As a result, the applicant has committed offenses under Sections 496 and 496-B of the Pakistan Penal Code, which are considered unacceptable in our society. Therefore, they contend that the bail application should be dismissed.

6. Taking into consideration the arguments presented by both counsels and upon reviewing the Record and Proceedings (R&Ps), a certified true copy of Mst. Sain's statement, recorded before the First Judicial Magistrate, Nawabshah, has been submitted with the bail application. The statement was recorded on 21.06.2022 after the registration of the F.I.R. in this case. In her statement, Mst. Sain, who is the wife of the applicant/accused Alan Khan, stated that her father, Hubdar Ali (the complainant), and stepmother, Mst. Laila, intended to sell her. Consequently, she left the house and sought shelter at Darul-aman. Based on this statement, the Magistrate sent her to Darul-aman Nawabshah.

7. The fact about Mst. Laila being stepmother of Mst. Sain @ Sanoo has been denied by Mst. Sain @ Sanoo before the Magistrate and such controversy could be determined at trial because only tentative assessment of the evidence available on record is to be considered at bail stage. The allegations of offenses under Sections 496 and 496-B of the Pakistan Penal Code against the applicant/accused require further investigation, which can be determined during the trial. Regarding the offense under Section 506/2 of the PPC, there are allegations of the accused issuing threats of dire consequences, despite being allegedly armed at the time of the incident. Considering these factors, it can be concluded that the accused/applicant is entitled to the concession of bail, as the case requires further inquiry and investigation, which can be conducted during the trial.

8. Based on the presented arguments and considerations, the bail plea of the applicant, Alan Khan, son of Atta Muhammad Shambani, is accepted. The applicant shall be released on bail upon providing a solvent surety in the amount of Rs.50,000/- (Fifty thousand rupees) and a Personal Recognizance (P.R.) bond in the same amount, to the satisfaction of the trial court.

9. It is important to note that the observations made above are tentative and provisional in nature. These observations are not intended to prejudice the case of either party during the trial proceedings. The final determination of the case will be made based on the evidence and arguments presented in the trial court.

JUDGE