

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No.2364 of 2023
(Muhammad Rafique v. The State)

Date	Order with signature of Judges
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For hearing of bail application

07.05.2023

Mr. Fareed Ahmed, advocate for the applicant
Mr. Noor Hussain Jamali, advocate for the complainant
Mr. Mumtaz Ali Shah, Asstt. PG for the State

It is alleged that the applicant took away baby Maheen a girl aged about six years with him and then subjected her to sexual assault, for which the present case was registered.

The applicant having been refused bail by learned VIIth-Additional Sessions Judge, Karachi, East has sought the same from this Court by way of instant bail application under Section 497 Cr.P.C.

It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police at the instance of the complainant; his name does not appear in the FIR and the DNA report is negative, therefore, he is entitled to be released on bail on point of further inquiry.

Learned APG for the state and learned counsel for the complainant have opposed to release of the applicant on bail by contending that the offence which he has allegedly committed is affecting society at large. In support of their contentions, they relied upon the case of *Abdul Ghani v. The State through P.G Balochistan and another* (2022 SCMR 544).

Heard arguments and perused the record.

If the complainant would have been any enmity with the applicant then he would have named him in promptly lodged FIR; it was the investigation which suggests the involvement of the applicant

in the commission of the incident. On recovery P.W/victim Maheen, suggested the involvement of the applicant in the commission of the incident. P.W Abdul Ghani and others have supported the case of prosecution by stating that it was the applicant who was seen by them taking away P.W/victim baby Maheen with him on his motorcycle lastly; it has also been recovered. The Medical opinion suggests sexual assault with P.W/victim baby Maheen. DNA report of course is negative, but such fact alone is not enough to release the applicant on bail in a case like the present one. A deeper appreciation of the facts and circumstances of the case is not permissible at the bail stage. The offence in the face of it appears to be heinous and is affecting the society at large. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged. No case for release of the applicant on bail is made out.

Under the given circumstances, the instant bail application is dismissed with direction to the learned trial Court to expedite the disposal of very case against the applicant preferably within three months after receipt of a copy of this order.

Order accordingly.

J U D G E