

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

Criminal Bail Application No.1310 of 2023

Date

Order with signature of Judge

For hearing of bail application

Date of hearing and Order:- 12.7.2024

Applicant is present in person

Mst. Kinza is present in person.

Mr. Saleem Akhtar Buriro, Additional PG along with SI Saeed Anwar PS
Mehmoodabad Karachi

Complainant Mst. Shahida Nasir is present in person

ORDER

Adnan-ul-Karim Memon, J:- After being involved in F.I.R No.155/2023, registered under Section 365-B PPC, at PS Mehmoodabad the applicant is looking for his pre-arrest bail in terms of Section 498 Cr. P.C The earlier bail plea of the applicant under Section 498 Cr.PC has been declined by the learned trial court vide order dated 10.06.2023 in Cr. Bail Application No. 1658/2023 on the premise that the abductee was a minor as such the alleged marriage violated provisions of Sindh Child Marriage Restraint Act 2013. The victim in her statement has leveled allegations against the applicant and the offense falls within the definition of rape mentioned in Section 375 PPC as no mala fide has been attributed on the part of the complainant. This Court vide order dated 16.06.2023 observed that Mst. Kinza appeared with the narration that she contracted marriage with the present applicant.

2. Complainant Mst. Shahida Nasir who is present in person states that her daughter Mst. Kinza is living with her, this factum is disclosed in the order 20.06.2023. learned Additional PG states that since Mst. Kinza has stated that she contracted marriage with the applicant, as such he has nothing to add.

3. I have heard learned counsel for the parties and have perused the material available on record.

4. The applicant / accused has been booked in FIR No.155/2023, registered against him at Police Station Mehmoodabad, Karachi East under Section 365-B PPC. It is submitted by the applicant, who is present in person, that in the subject FIR, the complainant has alleged that his minor daughter Kinza was abducted by unknown persons; on coming to know about the FIR the above-named girl voluntarily appeared before the SHO concerned where her statement under Section 161 Cr.P.C. was

recorded, wherein she stated that she had solemnized Nikah with the applicant with her freewill as she was/is major. However, due to pressure her statement under Section 164 Cr.P.C. was recorded and police initiated action against the applicant now the victim has put her appearance before this Court and has no grudge against the applicant. He prayed for allowing the bail application.

5. The victim lady present in the Court has categorically stated that she contracted a valid marriage with the applicant out of her free will, such Nikahnama and affidavit of Free-will have been placed on record. Be that as it may, since the lady has no grievance as such this bail application needs to be disposed of based on her statement made in the Court without dilating upon the merit of the case.

6. If this is the position of the case, without touching the merits of the case, this Court is left with no option but to confirm the bail of the applicant in terms of the order dated 28.8.2023 on the statement of Mst. Kinza, however, the trial Court shall conclude the proceedings within two months.

7. The observation recorded hereinabove is tentative and does not touch the merits of the case.

JUDGE

Shafi