

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 394 of 2024

Applicant : Arbelo S/o Bahram Soomro,
through Mr. Qurban Ali Malano,
Advocate.

Respondent : The State through
Mr. Shafi Muhammad Mahar,
Deputy Prosecutor General.

Date of hearing : **05.08.2024**

Date of order : **05.08.2024**

ORDER

Zulfiqar Ahmad Khan, J. – Applicant Arbelo S/o Bahram Soomro is seeking post-arrest bail in FIR No.17 of 2023, lodged under Sections 365-B, 452, 363, PPC at Police Station Daharki, District Ghotki.

2. The allegation against the applicant is that on 12.01.2023 at 07:00 a.m., he in conjunction with co-accused Fateh Muhammad and two unknown accused trespassed into the complainant's house, kidnapped complainant's sister Mst. Rehana with the alleged intention to commit zina or forcible marriage and also took away his nephew Fahad Hussain.

3. It is, *inter alia*, contended by the learned Counsel for the applicant that the subject FIR was lodged on 14.01.2023 at 10:00 p.m. with the delay of more than 48 hours; that the alleged abductees have been residing at Karachi freely and the complainant has managed this false case; that applicant contracted marriage with complainant's sister Aneesa, and only for that reason complainant involved him in this case alleging abduction of his second sister Mst. Rehana, which is nothing but a concocted story. He, therefore, prayed for admission of applicant to the post-arrest bail.

4. On the other hand, learned DPG has supported the order passed by the learned trial court, whereby post-arrest bail was denied to him. He prayed for the dismissal of the instant bail application.

5. During hearing of this bail application, complainant chose to remain absent, while Mst. Rehana made her appearance and revealed that her nephew Fahad Hussain is at Karachi along with his mother, and they have been freely moving around for the last six months.

6. *Prima facie*, the delay of over two days in registering the FIR and the subsequent lack of appearance of the complainant suggests omissions in the complaint's narrative. The testimony of the abductee that she and her nephew have been freely moving for the past six months substantially undermines the initial allegations and suggests that the situation may not be in contrast to what has been portrayed in the FIR.

7. Section 365-B, PPC signifies the carrying away of a woman by any means with the aim that she may be compelled to marry or forced or made to illicit intercourse, against her will. The plain reading of the section indicates two main components and ingredients of the offense, firstly, there must be kidnapping or abduction of a woman, and secondly, the first act of abduction and kidnapping must be with the intent that she may be compelled to marriage or be forced or seduced to illicit intercourse.

8. In the case in hand, regarding the allegation of Zina-bil-Jabr, no evidence is available on record. Moreover, in view of the ground raised by learned Counsel for the applicant that applicant contracted marriage with complainant's sister Aneesa and this case is the counterblast of the same, this is a case of further enquiry.

9. It is a well settled principle of the administration of justice in criminal law that every accused is innocent until his guilt is proved and this benefit of doubt can be extended to the accused even at the bail stage, if the facts of the case so warrant. Reliance in this regard is placed upon the case of Fahad Hussain v. The State (2023 SCMR 364).

10. As a result of the above discussion, applicant Arbelo S/o Bahram Soomro is admitted to post-arrest bail in FIR No.17 of 2023, registered at Police Station Daharki, District Ghotki for offences punishable under Sections 365-B, 452, 363, PPC subject to his furnishing a solvent surety in the sum of Rs.20,000/- (Twenty thousand rupees) to the satisfaction of trial Court.

11. The observations made in this order are tentative in nature and would not prejudice the proceedings before the trial Court.

The bail application stands **disposed of** in the above terms. Above are the reasons of my short order dated 05.08.2024.

J U D G E