

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

CrI. Bail Application No.S- 288 of 2023
(Gaman Khan & others Vs. The State)

Date	Order with signature of Judge
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1. For Orders on office objection.
2. For hearing of bail application

Mr. Ubedullah K.Ghoto, advocate for Applicant.
Mr. Abdul Mujeeb Shaikh, advocate for the complainant.
Syed Sardar Ali Shah Rizvi, Additional P.G for State

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Date of hearing 02-10-2023.
Date of Order. 02-10-2023.

KHADIM HUSSAIN SOOMRO, J. Through the instant application, the applicants Gaman Khan, Gulsher, Lal Din, Ali Anwar, Imam Bux and Qutub-u-Din seek their pre-arrest bail in Crime No. 39/2023 under Ss. 452, 365-B, 354, 506/2, 147, 148, 149 PPC registered at Police Station A-Section, Ghotki. Prior to this, they filed such an application before the Sessions Judge Ghotki, which was dismissed by learned IInd Additional Sessions Judge, Mirpur Mathelo vide order dated 29-04-2023, hence this application.

2. Per the prosecution story, the complainant Muhammad Hanif lodged the FIR on 30-01-2023 alleging therein that Mst. Hina alias Sana aged about 28/29 years, is his wife. Accused Gaman Gabole so many times came to the house of the complainant, and pressurized Mst. Hina alias Sana for making illicit terms with him, but she refused, hence Gama Gabole was

annoyed and used to express that she would be kidnapped. On 28-09-2022 complainant, along with his wife Mst. Hina @ Sana, Shabbir Ahmed and other house inmates were available in his house. At about 7-00 p.m., accused Gaman Gabole, Gulsher Gabol, Lal Din, Ali Anwar, Imam Bux, Qutub, and two unidentified persons armed with pistols came there on one Alto Car, and two 125 motorcycles, and entered the house of the complainant. Accused Gaman Gabole, Ali Anwar and Imam Bux caught hold of the arms of Mst. Hina @ Sana, dragged her out ,and put her in the Alto car, she resisted, hence her clothes were torn from the front side, and she became naked, and then the accused persons abducted and taken her away. The complainant party raised cries, which attracted to other persons of Mohalla, but the accused persons issued threats of dire consequences to the complainant party, and went away while abducting Mst. Hina @ Sana, resultantly complainant lodged such FIR.

3. Learned counsel for the applicant submits that applicants/accused are innocent and have falsely been implicated in this case by the complainant due to a dispute over the landed property; there is an inordinate delay of about more than 02 months in lodging the FIR; the investigation has been conducted in this case, two times, up to the level of DSP and both of the times, the investigating officers have declared

the applicants/accused as innocent and their names were placed in column No.II of the challan and recommended for disposal of the case under "B" class, and such summary is still pending; hence the case of the applicants/accused requires further inquiry, and they are entitled to the concession of pre-arrest bail.

4. On the other hand, learned Additional P.G. recorded his no objection for the confirmation of pre-arrest bail of the applicants, on the grounds that the case has been recommended under "B" class, and such summary is still pending; whereas counsel for the complainant, has vehemently opposed the grant of pre-arrest bail on the ground that applicants/accused are nominated in the FIR and they have kidnapped away Mst. Hina @ Sana, and the offence in which the applicants are involved falls within prohibitory clause.

5. I have heard the learned counsels for the parties and perused the material available on record with their able assistance.

6. The record reflects that there is an inordinate delay of about more than two months in lodging of the FIR, and such a delay has not been explained plausibly by the complainant. The record also reflects that in this case, two times investigation has been conducted up to the level of DSP and both the investigating officers have declared the applicants/accused as

innocent and placed their names in column No.II of the challan and recommended for disposal of the case under "B" class, and such summary is pending before the Magistrate concerned. Moreover, during the investigation, the complainant has neither produced the Nikahnama of Mst. Hina @ Sana nor her photographs before the investigating officers nor any witness, and he did not cooperate with the investigation agency. The I.O has also recorded statement of Usama son of the complainant who disclosed that he does not know about the second marriage of the complainant nor his father residing at Ghotki. During the course of investigation the I/O, had gone to Rahim Yar Khan where he came to know that the complainant is a greedy and criminal type of person, and four FIRs have been registered against him.

7. In view of the above, the case against the applicants/accused calls for further inquiry, and they have made their case for grant of pre-arrest bail, therefore instant pre-arrest of the applicants/accused is confirmed on the same terms and conditions.

8. Needless to mention that the observations made hereinabove are tentative in nature and shall not cause prejudice to the right of either party at trial.

J U D G E