

IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1572 of 2024
Crl. Bail Application No. 1540 of 2024

Applicants : Muhammad Imran Shah and Shehzad Ahmed
through Mr. Muhammad Salman Khan Rind,
Advocate

Syed Adnan Ali Rizvi
through Mr. Tanweer Hussain Zaidi, Advocate

Respondent : The State
through Ms. Robina Qadir,
Additional Prosecutor General
a/w S.I. Mushtaq Shah, I.O.

Date of hearing : 26th September, 2024

Date of Order : 1st. October, 2024

ORDER

Omar Sial, J: Muhammad Imran Shah and Shehzad Ahmed (through Criminal Bail Application No.1572 of 2024) have sought post arrest bail in crime number 552 of 2024 registered under section 496-A PPC (subsequently added sections 376 and 34) at Shah Latif Town police station whereas Syed Adnan Ali Rizvi (through Criminal Bail Application No.1540 of 2024) has sought pre-arrest bail in the same crime. The learned 5th Additional Sessions Judge, Malir on 10.07.2024 dismissed the applications seeking bail.

2. On 18.05.2024, Rehmatullah went to the Shah Latif police station and complained that his wife and daughter had gone missing on 15.05.2024. F.I.R. No. 552 of 2024 was registered. Three days later the wife, Sapna, re-emerged. On 21.05.2024, she recorded a statement under section 164 Cr.P.C. in which she said that a man named Shehzad told her that he will give her ration and for that

purpose to come to a godown. When she went there, Shehzad, Adnan and Imran raped her for three days. Without specifying the date when she was able to flee, she said that one night all three were sleeping so she escaped and came back home.

3. I have heard the learned counsels for the applicants and the learned Additional Prosecutor General. The complainant and his counsel preferred to remain absent. My findings and observations are as follows.

4. The learned Additional Prosecutor General, who was assisted by the investigating officer of the case, submitted that since the date of the alleged incident and the subsequent registration of the F.I.R., Sapna has only been seen once i.e. when she had appeared to have her section 164 Cr.P.C. statement. All requests by the investigating officer for her to come and assist with information were in vain. The investigating officer had arranged an identification parade for Sapna to come and identify the accused; however she did not turn up. She also did not assist the police in identifying the place where she was allegedly taken. The investigating officer in his efforts to unearth the truth was sceptical about the veracity of Rehmatullah's claim that he was her husband. A copy of the nikahnama given to the police by Rehmatullah has been found dubious and in all likelihood a forged one. I find it surprising that while it is not claimed that Rehmatullah and Sapna even knew the accused prior to the incident, Sapna and Rehmatullah both knew their names and Rehmatullah even took the police to where the accused were sitting and identified them as the ones who had raped Sapna. The investigating officer revealed that the call data record collected by him also shows the accused to be present at other places and there was absolutely no contact between the accused and Rehmatullah over the phone.

5. DNA samples were taken from Sapna's vaginal swabs and supposed semen stains on her shalwar and sent for analysis. The laboratory reported that no human male DNA detected was from the vaginal swabs.

6. According to the investigating officer, no evidence could be found against the applicants. He suspected that the case may be a counter blast to a terrorism case that was filed earlier by the accused party against the complainant party. It was for these reasons that he has concluded that the case was a false case but the learned magistrate had not agreed with his recommendation. In view of the ongoing hostility between the parties and the conduct of the complainant party, I am unable to exclude malafide at this preliminary stage.

7. Given the above, I am of the opinion that the applicants have made out a case for further inquiry. Muhammad Imran Shah and Shehzad Ahmed are admitted to post arrest bail against the sureties of Rs.200,000 each and P.R. Bonds in the like amount to the satisfaction of the learned trial court whereas the interim pre-arrest bail granted to Syed Adnan Ali Rizvi earlier is confirmed on the same terms and conditions.

JUDGE