

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
 Cr. Bail Appl No. **56** of 2018
 Cr. Bail Appl No. **190** of 2018

Date	Order with signature of Judge
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Present:-

Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Muhammad Karim Khan Agha.

For hearing of Bail Application.

02.04.2018.

Mr. Muhammad Akbar Khan, advocate for applicant
 Mr. Ali Haider Salim, DPG

ORDER

MUHAMMAD IQBAL KALHORO J: By this single order, we dispose of above two bail applications, whereby the applicant is seeking post arrest bail in a case bearing crime No.231 of 2017 U/s 365-A, 34 PPC read with Section 7 of ATA, 1997; and a case bearing crime No.236 if 2017, U/s 23-A(i) Sindh Arms Ordinance, 1997, both registered with Police Station Shahra-e-Faial, Karachi.

2. This FIR was registered after a letter regarding abduction of an Iranian national, Majid against ransom written by Iranian Embassy was forwarded to the police. Consequent to it, a raid at Flat No.501-B, Saima Square, 5th Floor, Block No.10/A, Gulshan-e-Iqbal, Karachi was conducted during which not only the said abductee namely Majid but also three (03) other foreigner abductees namely Charles, Francis and Mark Madho, who were Nigerian nationals, were also recovered. The applicant and other four accused, who are shown in the FIR to be available in the said flat duly armed with weapons, were arrested. From the applicant, a 222 rifle along with 11 live rounds was allegedly recovered. Pursuant to it, the present case and separate cases under Section 23(1) Sindh Arms Act, 2013 were registered against the applicant and co-accused.

3. Learned defence counsel has mainly argued that applicant is innocent and has been falsely implicated in this case; that the applicant had earlier filed Cr. B.A. Nos.1132/2017 and 1210 of 2017, which were disposed of vide order dated **06.10.2017** with directions to the trial Court to examine the abductees within a period of 45 days but since the trial Court could not do so in stipulated time, he has filed the present bail applications. In these cases also, vide order dated **07.03.2018**, fifteen (15) days' further time was given for recording evidence of the said abductees but even up-till now the abductees have not been examined by the trial court; that during the investigation 164 Cr. P.C. statements of the abductees were recorded but they have not specifically

implicated the accused; that in the trial the evidence of police officials has been recorded but they have not specifically involved the accused either. Learned defence counsel has further argued that applicant is 78 years of age and is ill and has been falsely implicated in the present case, therefore, he is entitled to grant of bail.

4. On the other hand, learned Deputy Prosecutor General has opposed grant of bail to the applicant on the ground that he was arrested from the spot along with the abductees and from him a 222 rifle with 11 live rounds was recovered, which, *prima facie*, connects him with commission of present offences.

5. We have considered submissions of the parties and perused the material available on record. As to previous directions, it may be mentioned that we have noticed that all the four abductees are foreigners and are no more available in the country. And after alleged experience as reported above they are less likely to return to this country for giving evidence. While giving the directions for recording their evidence previously, this Court did not consider this fact in its true context particularly with a reference to their being not available in this country and that the trial can be concluded minus the evidence of abductees in the peculiar circumstances of the present case. Be that as it may, we have seen that there is *prima facie* material against the applicant. He is nominated in the FIR and was arrested from the spot, where alleged abductees were found confined and from him a 222 rifle along with 11 live rounds was recovered. These facts connect the applicant with the commission of the alleged offence and in presence of such material, we do not consider the applicant entitled to the concession of bail just because the previous directions to expedite the trial have not been complied with. Consequently, these bail applications are dismissed, however, we direct the trial court to record evidence of the remaining material witnesses expeditiously and conclude the trial within a period of two (02) months and submit such compliance report. During that period the I.O. must make efforts for producing the abductees before the trial Court.

6. The bail applications are disposed of in the above terms. The findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

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Rafiq/P.A.