

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Cr. Bail Appln. No.S- 56 of 2024

Date of hearing	Order with signature of Judge.
	1. For orders on office objection. 2. <u>For hearing of bail application.</u>
Applicant (Riaz Hussain Birhmani)	Through Mr. Muhammad Sharif R. Awan, Advocate
The State	Through Mr. Aitbar Ali Bullo, DPG.

Date of hearing : 14.03.2024.

O R D E R.

MUGHAMMAD SALEEM JESSAR- J.- Through this application, applicant seeks post arrest bail in Crime No.264 of 2023 registered with P.S K.N. Shah, District Dadu, for offences under Sections 363, 365-B, 496-A, 34, PPC. Applicant filed post arrest bail application before the trial Court/Additional Sessions Judge-IV, Dadu vis-à-vis Cr. Bail Appln. No.3147 of 2023, who, after hearing the parties, turned down his request vide order dated 06.01.2024, hence this application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR as well as bail application and the order passed by trial Court, therefore, there is no need to reproduce the same.

3. Learned Counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case by the complainant. He next submits that there is inordinate and scandalous delay of 03 years in lodgment of FIR without plausible explanation furnished by the prosecution. He submits that no such incident had occurred and in fact the complainant had entered into marriage/nikah with the present applicant with own free-will and consent

and subsequently due to differences, she had left him and after lapse of three years she has lodged this false FIR solely with a view to blackmail the applicant and extort money from him. Lastly, learned Counsel submits that, the case against the applicant requires further enquiry as contemplated under sub-section (2) to Section 497, Cr.P.C. He, therefore, requests for grant of bail to the applicant.

4. Learned Addl. P.G., appearing for the State, opposes the bail application, on the ground(s) that the applicant has been nominated in the FIR with specific role of abducting the complainant. The version of complainant mentioned in the FIR has been fully supported by the PWs in their 161, Cr.P.C statements and this is an offence against the society, therefore, the applicant does not deserve to be released on bail.

5. Heard learned Counsel for the applicant, learned DPG for the State and perused the material made available on record.

6. Per FIR, the alleged incident is shown to have occurred three years before the FIR; however, the FIR was lodged on 20.08.2023 and such inordinate and scandalous delay of 03 years has not been explained plausibly by the prosecution. The delay in criminal cases has always been held fatal by the Superior Courts, particularly in the cases of like nature silence on the part of complainant for 03 long years leaves adverse impact upon the prosecution case. At present, no sanctity can be attached to the version of complainant given by her, which can only be established after recording evidence of complainant and her witnesses at trial and at this stage, the case against the applicant calls for further enquiry, as envisaged under sub-section (2) to Section 497, Cr.P.C.

7. For the foregoing reasons, the applicant in my view deserves to be enlarged on bail. Accordingly, instant bail application is allowed. Resultantly, the applicant shall be released on bail on his furnishing solvent surety in the

55

sum of Rs.200,000/- (Rupees two lacs only) and P.R. Bond in the like amount to the satisfaction of learned trial Court.

8. Needless to say that the observations recorded hereinabove are based on tentative assessment of the material placed on record, which shall influence the trial Court in any manner while dealing with the trial.

JUDGE