

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appn. No. S- 762 of 2023.

Date of hearing	Order with signature of Judge.
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1. For orders on office objections as flag A.  
2. For hearing of bail application.

Applicant  
(Munawar Ali) : Through Mr. Aneel Kumar, Advocate.

Complainant  
(Ghulam Farid) : Through Mr. Zafar Ali Malghani, Advocate.

The State : Through Mr. Ali Anwar Kandhro, Addl. P.G.

Date of hearing : 25.3.2024.

O R D E R.

MUHAMMAD SALEEM JESSAR-J.:- Through instant bail application, the applicant Munawar Ali seeks his admission on pre arrest bail in Crime No.33 of 2021 P.S Jaggan @Humayoon District Shikarpur under Sections 365-B, 363 PPC. The applicant filed pre arrest bail application No.1062 of 2021 before the Court of Sessions Judge, Shikarpur where initially applicant was granted ad interim pre arrest bail but later on its confirmation was declined vide order dated 07.9.2021.

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

3. Learned counsel for the applicant contended that alleged abductee Mst.Ujalla has married with co-accused Habibullah before the Court of Munsif Khan, Additional Sessions Judge/Justice of Peace, Sadiqabad (Punjab) on 09.7.2021. As far the role of applicant is concerned, he alongwith co-accused namely Sarwar alias Ghulam Sarwar, Ali gul and Roshan had facilitated the co-accused. The co-accused Sarwar alias Ghulam Sarwar and others have already been admitted to pre arrest bail by the Court of learned 3<sup>rd</sup> Additional Sessions Judge, Shikarpur vide Cr.Bail Appln. No.S- 689 of 2023 re: Sarwar alias Ghulam Sarwar and others v. The State. He further submits, the case has been challaned which is now pending for trial before the Court of learned 3<sup>rd</sup> Additional Sessions Judge, Shikarpur vide Sessions Case No.123 of 2023 re: State v. Habibullah and others where it is fixed for recording evidence on 05.4.2024, therefore, case against the applicant requires further enquiry and

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prays for confirmation of interim pre arrest bail already granted to the applicant. In support of his contentions he has placed reliance upon the cases reported as Muhammad Shahbaz v. The State (2018 P.Cr.L.J 1025), Naseem Mangnejo and another v. The State (2023 MLD 1072), Suhail v. The State and another (2009 P.Cr.L.J 312), Ubaidullah v. The State (2021 MLD 1720), Muhammad Shafique v. The State and another (2017 YLR Note 418), Mukhtar Ahmad v. The State and others (2011 MLD 1020) and Muhammad Asif v. The State and another (2018 YLR Note 170).

4. Learned Addl. P.G has no objection.

5. Mr. Zafar Ali Malgani, advocate files vakalatnama on behalf of complainant, taken on record. He opposes the bail application on the ground that alleged abductee has not been recovered so far, therefore, applicant is not entitled for bail. He however, could not controvert the fact that co-accused Sarwar alias Ghulam Sarwar and others having similar role have already been bailed out whereas said order has not been assailed by the complainant ultimately it has attained finality.

6. No doubt the applicant is nominated in the FIR; however, no specific role or any overt act is assigned to him. The alleged abductee Mst.Ujalla, as per record, had married with co-accused Habibullah who is still at large. The co-accused Sarwar alias Ghulam Sarwar and others with identical role have been admitted to pre arrest bail by the Court below and the case of the applicant is at par with them, therefore, propriety demands, the applicant should also be extended constant treatment. Since, the case has been challaned and the applicant is no more required by the police for any interrogation or investigation, hence to put him behind the bars will serve no purpose as tomorrow again he will be bailed out on the ground of parity. Reliance is placed in the case of *Muhammad Ramzan VS. Zafarullah and another (1986 SCMR1380)*.

*Muhammad Ramzan VS. Zafarullah and another (1986 SCMR1380)*

7. In the circumstances and in view of above, case against the applicant requires further enquiry. Consequently, instant bail application is hereby allowed. Interim pre arrest bail already granted to the applicant vide order dated 26.12.2023 is hereby confirmed on same terms and conditions.

8. Needless to observe that the observations made herein above are tentative in nature which shall not influence the mind of trial Court while deciding fate of the main case.

JUDGE