

## **ORDER SHEET.**

### **IN THE ISLAMABAD HIGH COURT, ISLAMABAD.** **JUDICIAL DEPARTMENT.**

**Criminal Misc. No. 830/B/2020.**

Sher Rehman

*Versus*

The State through SHO PS Tarnol, Islamabad, etc.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
	27.07.2020.	Mr. Zahid Ali Khan, Advocate for petitioner. Mr. Hasnain Haider Thaheem, State Counsel. Raja Muhammad Farooq, Advocate for complainant. Tipu Sultan, S.I. P.S. Tarnol, Islamabad.

Through this CrI. Misc., petitioner has prayed for post-arrest bail in case FIR No.261, dated 08.05.2020, U/S 364-A/34 PPC, P.S. Tarnol, Islamabad.

2. Brief facts referred in the instant FIR lodged on the complaint of Mst. Gul Meena/respondent No.2 are that on 08.05.2020 at about 10:45 a.m. she alongwith her minor son namely Bilal aged about 11/12 years went to Bhadana Graveyard and after visit of graveyard at about 12:00 p.m. she was looking for taxi and walking on the road when all of sudden four persons Sher Rehman, her daughter Mst. Gul Sehat and two unknown persons armed with pistol came, who abducted the son of complainant in Toyota Corolla 2OD blue colour car and fled away from the scene.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case; that petitioner has business dispute with

husband of complainant; that investigation has been completed and challan has been submitted in the Court, whereby name of petitioner has been mentioned in column No.2 of the challan; that very registration of the FIR is based upon malafide as husband of complainant got lodged different FIR for abduction of all of his family members against different individuals in order to settle his score which reflects the conduct of the family, which amounts to abuse the legal process; that CDR collected by the I.O reflects that petitioner was not available at the place of occurrence and no evidence is available on record to connect the petitioner with the alleged offence.

4. Conversely, learned State Counsel as well as learned counsel for complainant contend that minor/ alleged abductee has not yet been recovered and even business dispute has not been denied by petitioner's side; that offence with which petitioner has been charged is non-bailable and falls within the ambit of prohibitory clause of Section 497 Cr.P.C. and as such petitioner has claimed ransom from the complainant which is evident from record, therefore, petitioner is not entitled for concession of bail.

5. Arguments heard, record perused.

6. The tentative assessment of record reveals that petitioner has been nominated in the above mentioned FIR with specific role of abduction of minor son of complainant aged about 11/12 years on 08.05.2020 in front of Bhadana Graveyard on gun point.

7. Cursory glimpse of record reflects that petitioner was arrested on 23.05.2020 and remained on physical remand for 12 days but nothing incriminating has been recovered from him, even it is not consumable to a prudent mind that an accused in order to abduct a person may seek help from her own daughter as alleged in the FIR. Investigation has been completed and challan has been submitted in the Court, whereby name of petitioner has been referred in column No.2 of the challan as there is no direct evidence against him surfaced on record as per stance of I.O.

8. The history of complainant's family reveals that different cases have been registered on the complaint of complainant/respondent No.2 or on behalf of her husband for her other family members, whereby all of her sons and daughters were abducted in different criminal cases which show the patron of complainant's side. Such trail of different cases got lodged by complainant is also not considered to be normal. The I.O has submitted the following details of different cases, lodged on behalf of complainant or her husband:-

<u>FIR No.</u>	<u>Date</u>	<u>U/S</u>	<u>P.S.</u>	<u>Abductee Name</u>
51	12.02.2014	365 PPC	Tarnol, Islamabad	Kamran
287	23.04.2018	365 PPC	Nasirabad, Rawalpindi	Mst. Ayesha
676	18.04.2018	365/149 PPC	City, Mardan	Kamran
492	20.05.2008	365/381-A PPC	Risalpur, Nushehra	Imran
26	13.01.2015	496-A PPC	Nasirabad, Rawalpindi	Mst. Gul Meena
251	28.05.2013	324 PPC	Nasirabad, Rawalpindi	

9. Similarly Ayaz Khan and his two wives were also accused in the following cases:-

FIR No.	Date	U/S	P.S.
232	21.03.2010	371-A/371-B/ 342 PPC	Sadiqabad, Rawalpindi
05	27.11.2012	371-B/376/344 PPC	Nasirabad, Rawalpindi

10. The I.O has also confirmed that petitioner was not within the proximity of area when the alleged occurrence took place. This fact further clarifies the CDR in which petitioner was available in other district. All these aspects disclose the case of further inquiry U/S 497(2) Cr.P.C. There is no denial that offence U/S 364-A PPC is non-bailable and non-compoundable, however, when case falls within the ambit of further inquiry, bail could be granted, even there is no bar for grant of bail in such type of cases. The petitioner is no more required for the purpose of investigation and he is behind the bars for the last two and half months and as such no useful purpose would be achieved by keeping him behind the bars.

11. In view of above, instant petition is allowed and the petitioner is admitted to post arrest bail subject to his furnishing of bail bonds in the sum of Rs.5,00,000/- (Rupees Five Lac only) with one surety in the like amount to the satisfaction of learned trial Court.

(MOHSIN AKHTAR KAYANI)  
JUDGE