

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 502/B/2019.

Syed Tasawar Hussain Shah

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	21.08.2019.	Malik Karim Bakhsh Awan, Advocate alongwith petitioner. Ms. Saima Naqvi, State Counsel. Mr. Mushtaq Ahmed Awan, Advocate for complainant/ respondent No.2. Nusrat Ali, Inspector.

Through this Crl. Misc. petition, the petitioner Syed Tasawar Hussain Shah has applied for pre-arrest bail in case FIR No.190, dated 24.06.2019, U/S 365 PPC, P.S. Aabpara, Islamabad, whereby complainant/ respondent No.2. has got lodged the complaint that his sister Sania Akhter was abducted on 22.06.2019 by Tasawar Hussain Shah, who has allegedly kidnapped Sania Akhter due to business dispute.

2. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case, as petitioner has already filed a civil suit for recovery against the alleged abductee titled Syed Tasawar Hussain Vs. Sania Akther filed on 19.06.2019, pending before the Court of Civil Judge, Rawalpindi; that complainant in order to settle the business dispute got lodged instant false case in connivance with the

alleged abductee who herself disappeared from home of her brother and came back to her home after one month and seven days; that statement got recorded U/S 164 Cr.P.C. is silent qua the role of petitioner, nor the alleged abductee ever pointed out place where she was kept under illegal confinement.

3. Conversely, learned counsel for the complainant alongwith State counsel contend that petitioner has been nominated with specific role and even alleged abductee has got recorded her statement U/S 164 Cr.P.C. and explained the circumstances and role of the petitioner and as such there is no malafide on the part of complainant or police.

4. Arguments heard, record perused.

5. Tentative assessment of record reveals that petitioner has been charged in criminal case FIR No.190, dated 24.06.2019, U/S 365 PPC, P.S. Aabpara, Islamabad for kidnapping and abduction of her sister Sania Akhter, aged about 27/28 years. As per contents of FIR Sania Akhter has some business dispute with the present petitioner, however, said abductee was recovered from unknown place and she has got recorded her statement U/S 164 Cr.P.C. and confirmed the allegation referred in the FIR. At this stage question of malafide could not be decided as the I.O has not completed the investigation who requires physical custody of the petitioner and as such if pre-arrest bail is allowed, it will amounts to preclude the I.O from investigation of this case which is

against the spirit of law as held in PLD 1994 SC 133
(Sarwar Sultan Vs. The State).

6. The record and circumstances reflect that petitioner is *prima-facie* connected with the alleged crime and no malafide has been brought on record against police as well as complainant at this stage, therefore, instant pre-arrest bail petition is meritless and the same is hereby dismissed, and the interim pre-arrest bail granted to petitioner vide order dated 01.08.2019 is hereby recalled.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid