

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Miscellaneous No.1323- B of 2022

Muhammad Zubair

Vs

The State and another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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01.12.2022	Mr. Ikhtlaq Ahmed, Advocate for the petitioner. Mr. Qasim Pervaiz, Advocate for complainant/respondent No.2. Mr. Zohaib Hassan Gondal, State Counsel. Sajid Abbas Cheema, DSP (legal). Imran, SI.
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The petitioner namely Muhammad Zubair seeks bail after arrest in case FIR No.507/22 dated 24.05.2022 under sections 365-B/376 PPC P.S Khanna, Islamabad.

2. The case of the prosecution against the petitioner is that on the complaint of respondent No.2 the above mentioned FIR was registered in which he alleged that on 23.05.2022 at about 8:30 P.M his daughter went out to a shop but did not return and it is apprehended that the accused alongwith others have abducted his daughter for the purpose of rape. The application of the petitioner was dismissed by the learned Additional Sessions Judge vide order dated 12.10.2022, hence the petition.

3. Learned counsel for the petitioner, *inter-alia*, contended that during the investigation no evidence has been found that the petitioner was involved in rape. It was further contended that Call Detail Record (CDR) of the petitioner shows that he was 30 kilometer away from the place of occurrence; that during the investigation a family has come forward claiming that the alleged abductee was at their place and they heard her crying in the street; that though a statement under section 164 Cr.P.C has been made implicating the petitioner and others, but that is merely an afterthought; that the case against the petitioner is one of further inquiry.

4. Learned State Counsel alongwith learned counsel for the complainant/respondent No.2, *inter-alia*, contends that though there is no evidence that the petitioner committed the offence of rape, but as per the statement under section 164 Cr.P.C, he is involved in abducting the complainant's daughter. It was submitted that during the investigation he has been found guilty.

5. Arguments advanced by the learned counsels for the parties have been heard and the documents placed on record examined with their able assistance.

6. The petitioner is implicated in the aforementioned offences. Apparently there is no evidence that the petitioner was in any way involved

in the commission of rape of complainant's daughter; other than the statement made by the alleged abductee under section 164 Cr.P.C there does not seem to be any independent evidence; that the petitioner was involved in the commission of the offences in question, the said fact makes the case against the petitioner is one of further inquiry.

7. For what has been stated above, the instant petition is allowed and the petitioner is enlarged on bail after arrest in the aforementioned case subject to furnishing bail bonds in the sum of Rs.100,000/- (Rupees one *lac* only) with one surety in the like amount to the satisfaction of the learned Trial Court. It is clarified that observations made above are tentative and shall not prejudice the learned Trial Court at the time of trial.

(CHIEF JUSTICE)

Niqab M