

## **ORDER SHEET.**

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

**Crl. Misc. No.606/B/2019.**

Ali Haider

Versus

The State 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>
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21.10.2019.	Mr. Ali Hussain Bhatti, Advocate for the petitioner. Mr. Farid Hussain Kaif, State Counsel. Rao Sabir Hussain, Advocate for respondent No.2. SP Omer Khan, DSP Khalid Mehmood Awan, Iqbal Gujjar S.I, Malik Mumtaz S.I and Safdar ASI.
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Through instant petition, the petitioner has prayed for his post arrest bail in case FIR No.435, dated 03.09.2019, U/S 365-B PPC, P.S Golra Sharif, Islamabad.

2. Brief facts as referred in this case registered on the complaint of respondent No.2/Amna Bibi are that her daughter namely Nadia aged 17/18 years gone to her daily routine work on 02.09.2019 and when she did not come back, she received a telephone call from two unknown numbers, who extended life threats and it has been alleged that her daughter has been kidnapped for the purpose of Zina.

3. Learned counsel for the petitioner contends that the petitioner is innocent and has falsely been implicated in this case; that as per medical evidence no mark of violence has been observed by the doctor on the body of the alleged abductee and even no rape has been committed with the alleged abductee; that sixteen (16) cases of different nature have been registered against the family of complainant, which shows their state of mind to

involve the petitioner without any basis; that the doctor has neither taken into possession the last worn clothes of the victim nor there is any chemical examiner report, through which it could be verified that rape has been committed with the alleged abductee; that DNA test report has not yet been received and the I.O has declared the petitioner innocent in his investigation; that statement U/S 164, Cr.P.C recorded by the Judicial Magistrate has to be appreciated at the time of trial as such there is no corroborative evidence to link the petitioner with the crime.

4. Conversely, learned State Counsel as well as learned counsel for respondent No.2 contends that the petitioner has been nominated in the instant case with specific role of commission of Zina with the alleged abductee and as such the petitioner is not entitled for concession of bail.

5. I have heard the arguments and perused the record.

6. Perusal of record reveals that the petitioner has nominated as accused in case FIR No.435, dated 03.09.2019, U/S 365-B PPC, P.S Golra Sharif, Islamabad through supplementary statement of alleged abductee Nadia Bibi, who has been abducted and raped by the petitioner and other co-accused persons. The tentative assessment of the record reveals that respondent No.2/complainant/Amna Bibi lodged the FIR with the allegations that her daughter Nadia Bibi aged 17/18 years was got missing on 02.09.2019, when she went to her daily routine work. The alleged abductee was recovered on 06.09.2019, who reached at Police Station and recorded her statement in which she did not nominate any individual except four un-known persons, who have committed Zina with her,

however, on 07.09.2019, she nominated Nisar, Iftikhar, one unknown person and Ali Haider present petitioner in her statement recorded U/S 164, Cr.P.C as well as in her statement before the I.O, however, the medical report is silent qua any mark of violence. The sample for the purpose of DNA has been taken, however, the result has not yet been received. The statement of alleged abductee reveals <sup>The</sup> role of the present petitioner as well as others, even she has stated in categorical terms that the I.O took her to the market and got new clothes for her, which were changed in the car of the police inspector and stained clothes were removed. This Court called SP Investigation as well as concerned doctor alongwith I.O, which further substantiate that Iqbal Gujjar, S.I has not investigated the matter in proper manner, even he retained the alleged abductee with some lady for two days, thereafter the alleged abductee has been produced in Police Station and later on in the hospital for medical, even the doctor Nasreen Butt did not take notice of clothes of the alleged abductee neither she asked about the clothes for the purpose of evidence and as such the I.O and one of the alleged S.I have misused their authority, which is apparent on record.

7. The entire background reveals that the petitioner is involved in the hideous crime and the police officials have separately been inquired by the SP Investigation, who has highlighted roles of the police officials, who remained negligent and inefficient during the investigation process. Therefore, at this stage DNA report has not yet been received. The tentative assessment of the record connects the petitioner with the crime, which otherwise falls within prohibitory clause of section 497,

Cr.P.C. Prima facie the petitioner is well connected with the alleged crime.

8. For what has been discussed above, instant post arrest bail petition is **dismissed**.

(MOHSIN AKHTAR KAYANI)  
JUDGE

R.Anjam