

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 644-B of 2020.

Hashim Nazeer.

VERSUS

The State, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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02. 27.04.2020. Mr Ahmad Nawaz Bhatti, Advocate for the
petitioner.
Mr M. Atif Khokhar, State Counsel.
Mr Azmat Hayat Bhatti, ASI with record.

The petitioner Hashim Nazeer son of Nazeer Ahmed has
sought post-arrest bail in case FIR No. 44, dated 29.01.2020, registered
under sections 365-B/34 of Pakistan Penal Code, 1860 (hereinafter
referred to as "**PPC**") at Police Station Kural, Islamabad.

2. Brief facts as alleged in the FIR are that on 29.01.2020, the
petitioner and the other co-accused/accomplice had forcibly abducted the
victims. Hence, the instant FIR.

3. The learned counsel for the petitioner has contended that;
this is second bail petition as the earlier petition was allowed by this Court
vide consolidated order, dated 24.03.2020, passed in Crl. Misc. no.230 of
2020, however, the same order was later recalled by the august Supreme
Court; the petitioner has been falsely involved in the instant case with
malafide intention and ulterior motives; the petitioner is a student and is
innocent; the petitioner has not committed the alleged offence; no specific

role has been attributed to the petitioner; offence is not attracted against the petitioner; story as narrated in the FIR is false, baseless and concocted; no incriminating material was recovered from the petitioner; the petitioner has been incarcerated for more than two and a half month; there is no eye witness of the alleged occurrence; the petitioner has no criminal record; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; incomplete report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the complainant has registered the instant case at the instance of others to humiliate, harass, pressurize and blackmail him; the case against the petitioner is that of further probe; there is delay of one day in registration of the instant case; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; hence prayed for the grant of post arrest bail.

4. The learned State Counsel appeared alongwith Azmat Hayat Bhatti ASI. They have opposed the grant of bail. It was argued that; the petitioner is nominated in the instant case; the petitioner has a specific role in commission of the alleged offence; FIR was lodged promptly; the petitioner is involved in commission of offence; the petitioner alongwith the co-accused/accomplice had abutted the nephews of the complainant on gun point; the abductees have recorded their statements under section 164 of Cr.P.C., wherein they have specifically nominated the present petitioner; the petitioner has committed a heinous offence; hence prayed for dismissal of the instant bail petition.

5. The learned counsel for the petitioner and the learned State Counsel has been heard and record perused with their able assistance.

6. The petitioner was earlier admitted to bail vide order, dated 20.03.2020 and his release was subject to satisfaction of the Deputy Commissioner that the latter would not be a threat to public safety. The petitioner due to the nature of the alleged offence was not released. This is, therefore, the first petition seeking bail on merits. The petitioner was specifically nominated in the FIR and his exact role has been described. The offence falls within the ambit of prohibitory clause of section 497 Cr.P.C. Sufficient incriminating material has been brought on record against the petitioner during the course of investigations. Report under section 173 of Cr.P.C. has been submitted before the learned trial Court and charge is in the process of being framed. The alleged abductees were recovered and they have recorded statements under section 164 of Cr.P.C., prima facie, supporting the facts narrated in the FIR. As per medical report of the abductees they have not attained the age of puberty as yet. This Court is satisfied that, prima facie, there is sufficient incriminating material against the petitioner in order to decline bail. Moreover, keeping in view the nature of the alleged offence release of the petitioner would be a threat to public safety. In the facts and circumstances of the instant case, this Court is not inclined to extend the concession of bail at this stage and, therefore, this petition is accordingly ***dismissed***. This Court expects that the learned trial Court will conclude the proceedings expeditiously.

Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which will obviously not prejudice the proceedings before the learned trial Court.

(CHIEF JUSTICE)

Asad K/*