

ORDER-SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Criminal Misc. No. 806-B of 2022

Husnain Mehmood

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.
	29.06.2022	Mr. Ikhlaq Ahmed, Advocate for petitioner. Mr. Jamil Fayyaz Rajpot, State counsel with Muhammad Asif S.I.

Through the instant criminal misc., petitioner/accused (*Husnain Mehmood*) prays for Post-arrest bail in FIR No.194, dated 14.03.2022, under Section 365-B PPC, registered with Police station Shahzad Town, Islamabad.

2. According to the allegations set-forth in the FIR .on 13.03.2022 when the complainant along with family members had been sleeping in their house as per routine, at about 12:30 am his son Abdul Rehman woke-up and witnessed daughter Zakia, aged about 15 years present in the house; that at about 2:30 am when his wife Rabia Bibi woke-up she did not witness Mst. Zakia in the house. The complainant alleged that someone enticed away her daughter in order to commit zina.

3. Learned counsel argued that no offence, as alleged, is made out as the petitioner contracted a valid marriage with the alleged abductee with her own free will and consent for which she got her statement recorded in terms of section 164 Cr.P.C; that the petitioner and the alleged victim are spouses, living together and that no incriminating material is available on record which prima facie connects the petitioner with the commission of alleged offence; that investigation has since been completed and petitioner

is no more required for further probe, therefore entitled to the concession of bail. Learned counsel relied upon case law reported as **PLD 2013 Lhr 243, 2018 PCr.LJ note 175 & 2022 PCr.LJ 26 (Islamabad)**.

6. On the other hand, learned State Counsel argued that the age of the alleged abductee is about 15- 16 years and has not attained the age of majority; that sufficient incriminating material is available on record which connects the petitioner with the commission of alleged offence, therefore, not entitled to the concession of bail.

7. Heard, record perused.

8. It is settled principle that while deciding a bail application, only tentative assessment of the material collected by the prosecution is permissible.

9. In the present case, record reveals that the alleged abductee in her statement under Section 164 Cr.P.C asserted to have entered into marriage with the petitioner with her own free will. As per police investigation, the stamp paper got issued by the alleged abductee for the Nikah Nama, has been verified as genuine. The alleged abductee also got recorded statement before the Judicial Magistrate Islamabad-East wherein she has negated the allegations leveled in the FIR. These facts create doubt regarding veracity of the allegation set-forth in the FIR and thus brings case of the petitioner within the ambit of further inquiry.

10. In-addition, investigation has already been completed, petitioner is no more required for further probe, he is also a previous non-convict and non-record holder while conclusion of trial is also not in sight, therefore, his further incarceration would serve no useful purpose.

11. Consequently, captioned criminal misc. is **allowed** and the petitioner is admitted to post arrest bail subject to his furnishing bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

12. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party.

(ARBAB MUHAMMAD TAHIR)
JUDGE

****//Kamran//****