

HCJD/C-121  
**ORDER SHEET**

**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**CRL. MISC. NO. 1013-B of 2020.**

**Saima Bibi.**  
*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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06.10.2020. Malik Muhammad Ajmal Khan, Advocate for the petitioner.  
Mr Rabi bin Tariq, State Counsel.  
Mr Muhammad Iqbal, SI with record.

The petitioner Saima Bibi wife of Danish Masih has sought post arrest bail in case, F.I.R. No. 353, dated 14.09.2019, registered under section 364-A/34 of the Pakistan Penal Code 1860 (hereinafter referred to as "**PPC**") at Police Station Sihala, Islamabad.

2. The brief facts, as alleged in the FIR are that on 14.09.2019 at about 05:30 p.m. two women had abducted the complainant's son, namely Maaz Akbar. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter is not nominated in the FIR; story as narrated in the FIR is false, frivolous, vexatious and concocted; the petitioner has not committed any offence; the petitioner has been involved in the instant case to harass and humiliate her; the petitioner has no concern whatsoever with the alleged offence; investigations qua the petitioner have been completed and she is no more required for the purposes thereof; the petitioner has also sought

bail on statutory ground; no incriminating material was recovered from the petitioner; recovery if any is fake and planted; the co-accused of the petitioner have been enlarged on bail and the petitioner is also entitled to the same relief, keeping in view the rule of consistency; the petitioner has no criminal record; the petitioner is innocent; there is no evidence against the petitioner; the offence is not attracted against the petitioner; the case against the petitioner falls within the ambit of section 497(2) of Cr.P.C.; the case against the petitioner is based on malafide intention of the complainant; the petitioner has been incarcerated for more than a year; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; there is no eye witness of the alleged occurrence; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; it is a case of further inquiry; hence urges for the grant of post arrest bail.

4. The learned State Counsel appeared alongwith Muhammad Iqbal, SI. They have opposed the grant of bail. They have argued that; the petitioner has committed a heinous offence alongwith her accomplices and therefore, does not deserve the concession of bail; there is no delay in lodging of the FIR; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; recovery has been affected; investigations qua the petitioner have been completed and trial of the case has commenced; the offence falls within the prohibitory clause of section 497 of Cr.P.C.; the petitioner does not deserve any leniency, hence prayed for dismissal of the instant bail petition.

5. The learned counsels for the parties have been heard and record perused with their able assistance.

6. Perusal of the record reveals that the petitioner was not nominated in the FIR. No specific role has been attributed to the petitioner. A plain reading of the FIR and the subsequent events raises questions regarding fulfilment of the ingredients of the offence under section 364-A of PPC. The co-accused in this case have been enlarged on bail. Furthermore, no identification parade was conducted in the instant case. There is no material on record to show the direct involvement of the petitioner in commission of the offence. The role of the present petitioner and her involvement definitely requires further probe. The investigations qua the petitioner have been completed and she is no more required for the purposes thereof. The report under section 173 of Cr.P.C. has been submitted before the learned trial Court. The petitioner has been incarcerated for more than a year and further incarceration of the petitioner will not serve any useful purpose. There is nothing on record to show that the petitioner has a criminal record or that there is an apprehension that she may abscond if released on bail. In the facts and circumstances of the instant case, this Court is satisfied on the basis of tentative assessment that a case for releasing the petitioner on bail is made out.

7. It has been aptly observed by the august Supreme Court in the case of "*Manzoor and 04 others versus The State*" reported as [PLD 1972 S.C. 81] as follows:

*"The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified*

*incarceration at any stage of the case albeit his acquittal in the long run”.*

In the light of the facts and circumstances of the present case, refusal of bail will tantamount to punishing the petitioner.

8. In the circumstances as mentioned above, this petition is ***allowed*** and the petitioner is ***admitted*** to bail, subject to furnishing bail bonds in the sum of Rs.5,00,000/- (Rupees five hundred thousand only) with one surety in the like amount to the satisfaction of the learned trial Court.

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/\**