

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

**Crl. Misc. No. 513/BC/2019**

Rahmat Ali

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>
<b>(02)</b>	09.10.2019	Rana Shahid Hussain Khan, Advocate for the petitioner. Mr. Fareed Hussain Kaif, State Counsel. Akhtar, S.I, P.S Industrial, Islamabad. Respondents No. 2 & 3 in person.

**MOHSIN AKHTAR KAYANI J.** Through this criminal miscellaneous, petitioner has prayed for cancellation of post-arrest bail granted to respondents No. 2 & 3 by learned Additional Sessions Judge (West), Islamabad vide order dated 26.06.2019 in case FIR No.217/19, dated 21.05.2019, U/s 365-B/34 , PPC, P.S Industrial Area, Islamabad.

2. Learned counsel for the petitioner contends that daughter of complainant was abducted by respondents No. 2 & 3 alongwith co-accused, who have been granted post arrest bail vide order dated 26.06.2019, passed by learned Additional Sessions Judge (West), Islamabad without considering the gravity of the offence. It was next contended that the impugned bail granting order is perverse, illegal and based upon extraneous considerations. It was lastly contended that the Nikahnama produced on record

by the defence side is false and fictitious and the abductee is minor by age, who was 14 years 09 months and 11 days old at the time of her abduction and her statement recorded U/s 164 Cr.P.C could not be considered valid.

3. Conversely, respondents No.2&3 put appearance and contend that they are not involved in abduction of Mst. Rehana Bibi, who allegedly entered into marriage with Adeel with her own free will and recorded her statement U/s 164, Cr.P.C, whereby no allegations have been leveled against respondents No. 2 & 3. Learned State Counsel contends that the investigation has been completed and respondents are no more required for the purpose of investigation and they have not misused the concession of bail.

4. Arguments heard, record perused.

5. From the perusal of record, it reveals that the petitioner /Rahmat Ali got lodged the FIR No.217, dated 21.05.2019, U/s 365-B/34 PPC, P.S Industrial Area, Islamabad with the allegation that her real daughter aged about 14/15 years was abducted by Adeel, Tanveer, Mazhar and Adeel's younger brother.

6. Tentative assessment of record reveals that both respondents No. 2 & 3 have been arrested by the local police and they have been sent to judicial custody after physical remand. The alleged abductee Mst. Rehana Bibi, who was born on 10.08.2004, aged about 14 years 09 months approximately has recorded her statement before learned Judicial Magistrate U/s 164 Cr.P.C on 14.06.2019, whereby she has taken a specific stance that she was not

abducted by anyone rather she has left the abode with her own free will and entered into Nikah with Adeel Hayat on 22.04.2019.

7. The statement of the alleged abductee was considered by the Court of learned Additional Sessions Judge (West), Islamabad while granting post arrest bail to the respondents No. 2 & 3 and it has rightly been pointed out that the question of age and veracity of the statement U/s 164 Cr.P.C could be appreciated only at the time of trial.

8. Even otherwise, the co-accused Adeel Hayat has allegedly entered into Nikah with alleged abductee i.e. Mst. Rehana Bibi. Copy of the Nikhanama has been placed on record. Investigation Officer in attendance contends that the concerned Nikah Registrar has not yet been investigated regarding the veracity of the said Nikah, however, all these factors have nothing to do with the respondents No.2 & 3. Even otherwise, respondent No. 3 is a minor and the petitioner failed to point out any illegality in the impugned bail granting order, passed by learned Additional Sessions Judge (West), Islamabad,

9. It is trite law that consideration for grant of post arrest bail and cancellation of post-arrest bail are altogether different. Reliance is placed upon **2016 SCMR 676 (Chairman NAB PGA NAB Islamabad Vs. Muhammad Khalid)**. Even otherwise, the Investigation Officer has acknowledged that investigation has been completed and there is no visible element of misuse of bail granted to the respondents No. 2 & 3 and in such eventuality, the

bail granting order could not be cancelled. Reliance is placed upon **PLD 2011 SC 210 (Abdul Rasheed Khan Vs. Zahoor Ahmed Malik and others)**. Even otherwise, learned counsel for the petitioner failed to point out any illegality and impropriety of the impugned order, passed by learned Additional Sessions Judge (West), Islamabad, which is based upon cogent reasons, whereas strong as well as exceptional grounds are required for cancellation of bail. Reliance is placed upon **2011 SCMR 908 (The State through Director General Vs. Said Ahmed)**, **2009 SCMR 1202 (Muhammad Azhar Vs. Dilawar and another)**.

10. In view of above situation, instant criminal miscellaneous petition is misconceived and same is hereby **dismissed**.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

Ramzan