

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 584-B of 2018.

Maqbool Ahmed.

VERSUS

SHO Police Station Aabpara, Islamabad, 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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05. 30.08.2018. Mr Akhtar Mahmood, advocate for the petitioner.
Mr Abid Hussain Chaudhry, Advocate, for the complainant.
Mr Rabi bin Tariq, State Counsel.
Mr Turab ul Hassan, ASI with record.

The petitioner Maqbool Ahmed son of Muhammad Manzoor Ahmed has sought post-arrest bail in case, FIR No. 183, dated 23.04.2018, registered under sections 376 and 364-A of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Aabpara, Islamabad.

2. Brief facts as narrated in the FIR are that on 23.04.2018, the complainant's daughter namely, Ms Misbah Laraib aged 13 years, did not return from school. It was alleged that some unknown persons had abducted her. Hence, the instant FIR.

3. The learned counsel for the petitioner has contended that; the the instant FIR is false and frivolous; the petitioner is innocent and

has no concern whatsoever with the alleged offences; prosecution case is based on malafide; the petitioner has been incarcerated for more than four months; investigations qua the petitioner have been completed and he is no more required for the purposes of investigations; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the petitioner is previously non-convict and non-record holder; there is no chance of the petitioner to abscond or tamper with the prosecution evidence; there is no incriminating material against the present petitioner; the petitioner has not committed any offence; there is malice on part of the prosecution; the case against the petitioner comes within the ambit of further inquiry; the petitioner is not involved in abduction or rape with the abductee / victim; no specific role has been attributed to the petitioner. The learned counsel has placed reliance on the cases titled "*Rahim Shahid vs. The State and another*" [2013 YLR 2642], "*Never Das and 04 others vs. The State*" [2011 P.Cr.L.J. 1015], "*Maria Sanam vs. The State and another*" [2017 MLD 1373], "*Rana Muhammad Javed Iqbal vs. The State and another*" [2018 YLR 207], "*Abdul Hameed vs. The State and others*" [2018 YLR Note 68], "*Muhammad Imran vs. The State and others*" [2014 P.Cr.L.J. 456], "*Muhammad Shabbir vs. The State and others*" [2016 YLR Note 184], "*Muhammad Shafique vs. The State and another*" [2017 YLR Note 418], "*Muhammad Akbar and 10 others vs. The State*" [1990 P.Cr.L.J. 50] and "*Shah Nawaz alias Chullu vs. The State and another*" [2013 P.Cr.L.J. 1782]; hence prays for grant of post arrest bail.

4. The learned State Counsel assisted by the learned counsel for the complainant appeared alongwith Turab ul Hassan, ASI. They have opposed the grant of bail. It was argued that; the petitioner has a specific

role in the commission of offences; the FIR was lodged promptly; the complainant was searching for her daughter; the petitioner is involved in the abduction as well as commission of rape with the abductee/victim; the petitioner has committed a heinous offence; the petitioner with the help of his co-accused firstly abducted the victim and, thereafter, committed rape with her. Reliance has been placed on the cases titled "*Muhammad Nadeem vs. State and another*" [PLJ 2015 Cr.C. (Lahore) 268], "*Muhammad Ilyas vs. The State*" [PLD 1972 (Lahore) 37], "*Abdul Majid vs. The State*" [1973 SCMR 108], "*Imtiaz vs. The State*" [1978 P.Cr.L.J. 740], "*S. Shahzad Ali Jafri vs. S. Muhammad Sajjad Abid and 02 others*" [1978 P.Cr.L.J. 742], "*Shaukat vs. The State*" [PLD 1982 FSC 179] and "*Shaikh Zahid Bashir vs. Sarkar and another*" [1995 P.Cr.L.J. 877]; hence prays for the dismissal of instant bail petition.

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

6. Perusal of the record shows that the petitioner was present at the crime scene from where the abductee / victim was recovered by the police officials. There is sufficient incriminating material placed on record to decline the concession of bail. The report under section 173 Cr.P.C. has been submitted before the learned trial Court and the trial of the case is about to commence. The offences fall within the ambit of prohibitory clause of section 497 Cr.P.C. Furthermore, there is nothing on record to show that the complainant had any enmity with the petitioner. There is sufficient incriminating evidence available on the record to refuse the concession of bail to the petitioner.

7. In the circumstances this Court is of the opinion that the petitioner is not entitled to the concession of post arrest bail at this stage, hence the same is hereby ***dismissed***. It is, however, expected that the trial Court shall conclude the trial expeditiously.

Needless to mention that these are tentative assessments, which shall not affect trial / merits of this case in any manner.

(ATHAR MINALLAH)
JUDGE

Asad K/*