

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 610-B of 2020.

Jameel Masih.
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.
-------------------------------	--------------------	--

26.03.2020. Mr Ghulam Nabi Baloch, Advocate for the petitioner.
Syed Salman Aziz, Advocate for the complainant.
Mr. M. Atif Khokhar, State Counsel.
Mr Naseer, ASI with record.

The petitioner Jameel Masih son of Bashir Masih has sought post arrest bail in case, F.I.R. No. 80, dated 18.02.2020, registered under sections 496-A & 376 of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Khana, Islamabad.

2. Brief facts as alleged in the FIR are that Sabir Masih, Shakeel Masih and Nabeel Masih had kidnapped the wife of the complainant for the purpose of committing Zina. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter has no concern whatsoever with the commission of alleged offences; offences do not fall within the prohibitory clause; the petitioner is not nominated in the FIR; the petitioner has been falsely involved in the instant case; the petitioner has no criminal record; further incarceration of the petitioner will not serve any useful purpose; story as narrated in the FIR is false, frivolous and vexatious; the petitioner is innocent; there is no

Crl. Misc. No. 610-B/2020.

evidence against the petitioner qua the commission of the alleged offences; the time of occurrence is not mentioned in the FIR; the police has not obtained report of chemical examiner as well as DNA report as yet; the case of the petitioner is of further inquiry; there is no incriminating material against the petitioner; investigation qua the petitioner has been completed and the latter is no more required for the purposes thereof; the petitioner has been incarcerated for almost one month; hence urges for the grant of bail.

4. The learned State Counsel assisted by the learned counsel for the complainant appeared alongwith Naseer, ASI. They have opposed the bail. It is contended that; the petitioner is involved in the commission of alleged offences; the abductee/victim has nominated the present petitioner after recording her statement under section 164 of Cr.P.C.; the petitioner has committed a heinous offence and does not deserve for concession of bail. Hence prayed for dismissal of the instant petition.

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

6. Perusal of record shows that the petitioner is not nominated in the F.I.R. The alleged occurrence had taken place on 14.02.2020, whereas the instant FIR was lodged on 18.02.2020 after a delay of four days. The present petitioner was involved in the instant case after recording of evidence by the alleged abductee/victim under section 164 of Cr.P.C. However, she has not stated during her statement that the present petitioner had committed zina with her. The medical report of the abductee/victim has not been placed on the record, as she has opted not

Crl. Misc. No. 610-B/2020.

to get herself medically examined. There is no D.N.A. report. Whether the present petitioner/accused is connected to the alleged offences requires further probe. Investigation qua the petitioner has been finalized and incomplete report under section 173 Cr.P.C. has been submitted before the learned trial Court. The petitioner has been incarcerated for almost one month. There is no chance of abscondance of the petitioner or tampering with the prosecution evidence. In such circumstances, the continued incarceration of the petitioner is not likely to serve any useful purpose at this stage.

07. 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.20,000/- (Rupees twenty 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/**