

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

**CRL.MISC. NO.817 /2019**

**Muhammad Shoaib Malik Vs The State etc**

<b>Serial No. of order/ proceeding.</b>	<b>Date of order/ proceedings</b>	<b>Order with signatures of judge, and that of parties or counsel, where necessary.</b>
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13.01.2020

Mr. Waqar Hanif Abbasi, Advocate for petitioner.  
Nemo for the complainant.  
Malik Mazhar Javed,, State counsel with Muhammad Farooq SI P.S Shahzad Town & Mehdi Khan ASI, P.S Industrial Area, Islamabad.

**GHULAM AZAM QAMBRANI, J**

The petitioner [Muhammad Shoaib Malik] seeks post arrest bail in case FIR No. 01/2019, dated 02.1.2019, under section 365-B/34 PPC, registered at Police Station Shahzad Town, Islamabad.

2. Brief facts of the case are that the complainant [Syed Afzaal Hussain Shah] lodged a complainant against the petitioner and his mother stating therein that they have abducted the sister of the complainant namely Sumaira Batool.

3. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the instant case; that the petitioner has no concern with the commission of the alleged offence; that FIR is based on malafide and has been involved in the case on the basis of personal grudge and that the case of petitioner is one of further inquiry and probe.

4. On the other hand, learned state counsel vehemently opposed the grant of bail to the petitioner by contending that sufficient material is available on the record to connect the petitioner with the commission of the alleged offence.

5. Complainant put appearance on the last date of hearing i.e 07.1.2020 and sought time to engage services of a counsel. Today neither complainant nor his counsel nor any intimation has been received on his behalf. Therefore, this Court is left with no other option, but to decide the case after hearing learned counsel for the petitioner, learned State counsel and by perusing the record.

6. Arguments heard, record perused.

7. Briefly, the instant case has been registered against the petitioner, his mother and two un-known persons stating therein that on 30.12.2018 at about 10.00 AM, his sister was abducted by the petitioner and his mother namely Fozia Shahid and they also took away 10-tolas gold ornaments and an amount of Rs 1,00,000/- cash.

8. Tentative assessment of the record shows that petitioner is behind the bar since 13.2.2019, the investigation of the case is complete, report under section 173 Cr.P.C has been submitted in the Trial Court. No useful purpose would be served to keep the petitioner behind the bar for an indefinite period. It is common practice in our society that parents of the girl involve the boy and his family members in the abduction case of their daughter due to grudge that their daughter had contracted love marriage without their consent.

9. On 13.2.2019, the couple was arrested by the police and on the very day she got recorded her statement under section 161 Cr.P.C wherein she clearly stated that she had contracted marriage with Muhammad Shoaib Malik at her own and that she had not been abducted. She further stated that no one abducted her and her brother had lodged a false, baseless and a concocted case against the petitioner and others. Thereafter, the police of Police Station Charsadda produced the alleged abductee before the Judicial Magistrate, Charsadda wherein she also got recorded her statement, which is placed on record, that she had not been abducted which makes the case of the petitioner one of further inquiry.

10. In the backdrop of the above narrated facts and circumstances, it seems that a matrimonial issue is being transformed into a criminal case by the complainant to satisfy his vengeance. The question whether the abductee/victim has actually been abducted by the petitioner or she has herself left the house of her parents and contracted marriage with the petitioner, shall be determined by the learned Trial Court after recording of evidence.

11. For what has been discussed above, the case of petitioner *prima facie*, becomes that of further inquiry covered by subsection (2) of section 497 Cr.P.C. This petition is allowed and petitioner is admitted to post arrest bail subject to furnishing bail bonds in the sum of Rs 2,00,000/- (Two lac) with one surety in the like amount to the satisfaction of learned Trial Court.

12. The observations made above are tentative in nature and are strictly confined to the decision of this bail petition only.

**(GHULAM AZAM QAMBRANI)**  
**JUDGE**

S.Akhtar

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