

JUDGMENT SHEET
PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

Cr.Misc.(B.A.)No.313-A/2020

JUDGMENT

Date of hearing.....27-04-2020.....

*Petitioner (s)... (Muhammad Ashraf) by Malik Amjad Ali,
Advocate.....*

*Respondent (s)..... (The State) by Sardar Muhammad Asif,
Assistant Advocate General and Masood-ur-
Rehman Tanoli, Advocate*

AHMAD ALI, J.- After having been refused post arrest bail to accused-petitioner, Muhammad Ashraf son of Muhammad Azram, in case FIR No.419 dated 23.04.2019 under sections 365-B of Pakistan Penal Code, 1860 registered at Police Station Havelian, District Abbottabad, by the learned lower Court, he seeks the same relief from this Court by filing instant post arrest bail petition.



2. Dildar Khan son of Muhammad Afsar Khan on 23.04.2019 submitted an application to the Incharge Police Post Rajoyia to the effect that his daughter Mst. Sawaira Bibi aged about 19/20 years was married to Zubair resident of Banda Sahib Khan, however, due to strained relations with her husband, she was residing in his house for the last six months; that on 20.04.2019 at 'Sham Wiala' she was found

missing, for which he searched her and now he is satisfied that her daughter was abducted by Sharafat Khan alias '*Titu*' son of Dildar Khan alongwith another unknown person in Suzuki Carry No.6230-Rawalpindi for the purpose of '*zina*'; that his daughter also took away cash amount of Rs.35,000/- and three '*tolas*' gold, which may also be recovered.

3. Arguments heard. Record perused.

4. It transpires from the record that initially the complainant has charged Sharafat Khan alias Titu alongwith another unknown person, who was later on traced as Zahid son of Ali Astan, for abduction of his daughter, Mst. Sawaira Bibi. However, this version was subsequently changed by the complainant in his statement under section 164 Cr.P.C recorded on 03.06.2019, wherein, he charged one Faizan and present accused/petitioner for abduction of his daughter. Sharafat Khan and Zahid were released on bail by this Court vide orders dated 20.09.2019 and 01.10.2019, respectively. Now, again the present accused/petitioner alongwith his co-accused Faizan were charged by the complainant on the basis of his satisfaction but no source has been disclosed by him in this respect. Admittedly, the present accused/petitioner alongwith his brother Faizan has

been charged only on the basis of CDR date. At the moment, no independent ocular or strong circumstantial evidence is available on record to connect the accused/petitioner with the offence of abduction of Mst. Sawaira Bibi. Moreover, the divergent statements of complainant made the entire case of the prosecution doubtful, benefit whereof can be extended to the accused/petitioners even at bail stage. Reliance can be placed on **2018 P.Cr.L.J 173** and **2019 YLR 1617**. Similarly, the co-accused have already been admitted to bail by this Court, thus, under the principle of consistency, accused/petitioner also become entitled to the same relief.

5. Apart from the above, it has been held time and again by the august Supreme Court that bail does not mean acquittal of accused but only change of custody from Government agencies to the sureties, who on furnishing bonds take responsibility to produce the accused whenever and wherever required to be produced. Reliance could be placed on case reported in **2008 SCMR 807 "Haji Muhammad Nazir Vs State"**.

6. Before parting with this order, this court finds it necessary to mention that all the observations recorded above are tentative assessment just for the

disposal of bail petition and not intended to influence the mind of trial Court, which is free to appraise the evidence strictly in accordance with law and merits of the case.

7. So, by cutting the cackle, on tentative assessment of material available on file, a case for the grant of bail is made out. Consequently, this bail application is allowed and accused-petitioner, named above, is admitted to bail provided he furnishes bail bonds in the sum of Rs.200,000/- (Two lacs) with two sureties each in the like amount to the satisfaction of *Illaq*a/Duty Judicial Magistrate, concerned, who shall ensure that the sureties are local, reliable and men of means.

Dt. 27-04-2020.



J U D G E

M.Saleem/*

(SB) Mr. Justice Ahmad Ali