

ORDER SHEET
IN THE LAHORE HIGH COURT
BAHAWALPUR BENCH, BAHAWALPUR
JUDICIAL DEPARTMENT

Crl. Misc. No. 1030-B of 2019

Salman Farooq

VS.

The State & another.

S.No. of order/ proceeding	Date of order/ proceeding.	Order with signatures of Judge, and that of parties or counsel, where necessary.
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08.05.2019

Ch. Noor Hassan, Advocate for the petitioner.
Mr. Najeeb Ullah Jatoi, Deputy Prosecutor General with
Riaz, ASI.

Through the instant petition under section 497 Cr.P.C., the petitioner, namely, Salman Farooq is seeking post-arrest bail in the case FIR No.302 of 2018, dated 27.06.2018, registered at Police Station City A-Division Chishtian, District Bahawalnagar, in respect of offences under sections 365-B and 376 PPC.

2. The allegation as against the petitioner, as culled from the evidentiary material produced before the Court is that, he abducted and raped the daughter of the complainant, namely, Mst. Maryam Latif.

3. The arguments advanced by the learned counsel for the petitioner and the learned Deputy Prosecutor General have been heard and the record of this case has also been perused with their able assistance.

4. This is bail after arrest and deeper appreciation is not allowed at this stage. The allegation against the petitioner is that he abducted the daughter (Mst. Maryam Latif) of the complainant, namely, Abdul Latif for illicit intercourse. After going through the record, it has been

noticed by this Court that the alleged abductee, Mst. Maryam Latif had contracted Nikah with the petitioner on 24.06.2018 and in this regard copy of the Nikahnama is attached with this petition, and the said abductee, Mst. Maryam Latif also gave her affidavit in this regard. Mst. Maryam Latif had also filed petition under sections 22-A and 22-B Cr.P.C. before the learned Ex-Officio Justice of Peace, Multan, wherein, she had duly acknowledged her marriage with the petitioner. It may not be out of place to point here that when the alleged abductee, Mst. Maryam Latif came to her parents, she opted to file a suit for jactitation of marriage in a learned Family Court, Chishtian, which fact *prima facie* establishes factum of Nikah of alleged abductee, Mst. Maryam Latif with the petitioner. In the backdrop of above narrated circumstances, it seems that a matrimonial issue is being transformed into criminal case by the complainant to satisfy his vengeance, hence, 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 him shall be determined by the learned Family Judge who has already taken cognizance of the matter, which is proper forum. Reliance can easily be placed on the case of Muhammad Azam Vs. Muhammad Iqbal and others (PLD 1984 SC 95). In view of above narrated circumstances, a possibility cannot be ruled out of consideration that the petitioner has been involved by the complainant in this case under the heat of prevailing animosity between the parties. The petitioner is previous non-convict, he is behind the bars since 17.08.2018, investigation of this case is complete, report under section 173 Cr.P.C. has been submitted in the trial court, thus, no useful purpose would be served by keeping him behind the bars. A person cannot be kept

behind the bars for an indefinite period. I may observe here that grant of bail does not mean that accused is acquitted of the charge, rather it is only a change of custody from State to surety. It is common practice in our society that parents of the girl usually got register FIR against the boy and his family members due to the grudge that their daughter had contracted love marriage. Nothing has been recovered from petitioner during investigation.

5. For what has been discussed above, the case of the petitioner becomes one of further inquiry covered by subsection (2) of section 497, Cr.P.C. This petition is, therefore, **allowed** and the petitioner is granted bail after arrest subject to his furnishing bail bond in the sum of Rs.500,000/- (Rupees five hundred thousand only) with one surety in the like amount to the satisfaction of the learned trial court.

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

(Sadiq Mahmud Khurram)
Judge

Approved for Reporting.

JUDGE