ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT

Criminal Misc. No.16-B of 2022

Rashid Mehmood

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	31.01.2022:	Mr. Anis Yaqub Rathore, Advocate for petitioner, Mr. Suhail Khurshid, learned State Counsel with Sabir ASI, M. Bilal Siddique Advocate for complainant.

Through the instant Crl Misc, petitioner seeks post-arrest bail in FIR No.745 dated 23.08.2021, under section 365-B, 376, 420, 468, 471 34 PPC, registered at Police Station Koral, Islamabad.

2. The allegations set-forth by the complainant in the above mentioned FIR are that he along with his kids and sister is residing in Street No.01, lane C-2, Tramri, Irfan Abad, Islamabad; that on 23.08.2021 at 7 O'clock in the morning, he went to his kids' room, where his sister Raheela Bibi was found missing and that he came to know through sources that petitioner (Rashid Mehmood son of Muhammad Yousaf resident of Gujranwala) has abducted his sister for illicit relations.

3. The learned counsel for the petitioner contended that in fact, real story of the case is that the sister of the complainant eloped with the petitioner on 17.04.2021 and they have contracted marriage and this fact was very much known to the complainant. The learned counsel further stated

that the alleged abductee had filed complaint under Section 506 PPC against the complainant of the instant FIR wherein she appeared before the Judicial Magistrate 1st Class, Gujranwala, recorded her statement that she has solemnized marriage on 17.04.2021 with the petitioner; that respondent No.2 to 4 wanted her to marry against her will that's why she eloped with the petitioner. Learned counsel further contended that as the alleged abductee is a *sui juris* aged about 28/29 years, therefore, provisions of Section 376 PPC does not attract in the instant case. The learned counsel further stated that the petitioner is behind the bars, investigation has been completed and he is no more required for investigation and that petitioner has no previous criminal record.

4. On the other hand, learned State Counsel assisted by learned counsel for the complainant contended that the petitioner has been nominated in the FIR with specific role of abduction and further by producing a fake Nikah-nama. Allegations of preparation of forged documents has been added in the FIR, the petitioner from the day first tried to manipulate the case by producing fake and forged documents; that the abductee has recorded her statement under Section 164 Cr.P.C against the petitioner and has categorically stated that she was abducted by the petitioner for illicit relations. They further contended that challan of the case has been submitted in the Court wherein charge has been framed and now the case is fixed for prosecution evidence. Therefore, petitioner is not entitled for the concession of post arrest bail.

5. Arguments heard. Record perused.

6. Perusal of the record reveals that FIR was lodged on 23.08.2021 and the petitioner with his CNIC and mobile number was specifically nominated with the allegation of abducting Mst. Raheela Bibi. The record further reveals that the petitioner and the alleged abductee were in contact with each other much prior from the date of occurrence. This very fact was verified by the I.O. of the case during investigation.

7. It is further revealed that the alleged abductee recorded her statement before the Court of Judicial Magistrate 1st class Gujranwala where she has lodged a complaint under Section 506 PPC against the complainant of the case alleging that the complainant and her father are stressing her to marry someone against her will and that on 17.04.2021 she has contracted marriage with the petitioner and she is *sui juris* and contracted marriage out of her free-will with the petitioner (Rashid Mehmood).

8. The record further reveals that during recording of statement of the alleged abductee u/s 164 Cr.P.C on 13.09.2021, petitioner was in police custody but no notice was issued to him to cross-examine the alleged abductee.

9. The petitioner is behind the bars for more than four months since his arrest i.e. 05.09.2021. The alleged abductee has since joined her father through an agreement between the petitioner and the father of the respondent on 26.08.2021. After the said date, she remained with the complainant and her father but was never produced before the police authorities for recording her statement till 12.09.2021 which casts doubt on the statement of the alleged abductee. The investigation has been

completed and the petitioner is no more required for further investigation.

10. It is settled principle that at baill stage the Court is not to make deeper examination and appreciation of the evidence collected during investigation or to conduct anything in the nature of a preliminary trial to determine the guilt or innocence of accused. However, for deciding the prayer of an accused for bail, the question whether or not there exist reasonable grounds for believing that he has committed the alleged offence cannot be decided in vacuum. The court, for answering the said question, has to look at the material available on record when the bail is applied for and be satisfied that there is, or is not, prima facie some tangible evidence which, if left un-rebutted, may lead to the inference of the guilt of the accused. Reliance is placed upon case of *Muhammad Sarfraz Ansari v. State and others.* (**PLD 2021 SC 738**),

11. Furthermore, mere accusation of an offence would not be sufficient to disentitle an accused from being bailed out. There should be "reasonable grounds" as distinguished from mere allegations or suspicion. Reliance is placed upon recent Judgment of the Hon'ble Apex Court in the *Civil Petitions No.3637 & 3638/2019 (Muhammad Iqbal Khan Vs. National Accountability Bureau (NAB).*

12. Having carefully examined the material collected by the prosecution as highlighted above, in my tentative assessment, there are no reasonable grounds for believing the petitioner has committed the alleged offences but there are sufficient grounds for further inquiry in terms of

Section 497 (2) of Cr.P.C, therefore, instant Crl Misc is allowed. The petitioner is admitted to post-arrest bail subject to his 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.

13. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party.

(**ARBAB MUHAMAMD TAHIR)**
JUDGE

A.R.Ansari