

IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].

Cr.Misc.BA No.249-P/2017

Date of hearing:- 03.03.2017

Petitioner(s):- Asim Raziq by Mr. Wali Khan Afridi, Advocate.

Respondent (s):-State by Mr. Muhammad Naveed, Advocate, and
respondent by Noman Sattar, Advocate.

ORDER

ROOH-UL-AMIN KHAN, J:- This common order shall dispose of instant bail application, filed by petitioner Asim Raziq and connected Cr.Misc.BA No.250-P/2017, filed by petitioner Mst. Noreen, as both arise out from one and the same FIR No.46 dated 15.02.2011, registered under sections 365-B/494 PPC, in Police Station Regi, District Peshawar.

2. According to report of complainant Ayaz Khan on 15.02.2011, while he was present in his shop, situated in Gul Haji Plazq, University road, was informed by his father about missing of his wife Mst. Noreen, so he rushed to his house and found his wife missing leaving her minor kids Mst. Sumbal and Mst. Gulalay aged 3 years and 13 months, respectively at her house. He was in search of his wife, when came to know that she has been enticed away by Asim and his companions for the purpose of marriage. Hence, this case.

3. Having heard the arguments of learned counsel for the parties, the marriage of Mst. Noreen with the

complainant has not been denied by both the petitioners, however, the stance of petitioner counsel is that Mst. Noreen was divorced by the complainant whereafter she entered into Nikah with petitioner Asim Raziq. The petitioners have produced Nikah Nama to the I.O. which is available on file. Perusal of the Nikah Nama reveals that in column “whther the bride is virgin or divorced word “**virgin** has been mentioned. It does not find any mention of dower of either kind as well as any CNIC number of the witnesses and Nikah Khawan. Similarly, none of the witnesses named in the Nikah Nama have come forward in support of the stance of the petitioners. The date of marriage mentioned in the Nikah Nama is 03.01.2010, which is the date of birth of Mst. Gulalay (the minor daughter of complainant). Nothing is available on the record suggestive of the fact regarding alleged divorce of the petitioner Mst. Noreen by the complainant. Record depict that the accused Mst. Noreen has left her house on 15.2.2011 and on the same date the complainant has reported the matter to local police. Had she been divorced by the complainant prior to the day of occurrence, she would have left the abode of her in-laws on the day of alleged divorce and would have not stayed with complainant thereafter. It is manifest from the record that she has left the house of her husband with her paramour, Asim Raziq and has got settled with him during

subsistence of her marriage with complainant, so much so, has given birth to two children namely Abuzar (boy) and Roma (girl) from the alleged wedlock with co-accused Asim Raziq. Sufficient evidence has been collected during investigation by the I.O. in support of the stance of the complainant to show their prima facie involvement in a case of elopement during subsistence of marriage of accused Mst. Noreen with complainant. The plea of subsequent Nikah seems fallacious on the face of it, hence the grant of bail to both the accused and allowing them to live as husband and wife in a situation, particularly when the Nikah of accused/petitioner Mst. Noreen with the complainant still exists, would result in an odd situation and shall create further complications.

4. On tentative assessment of the material on record, the above observed circumstances prima facie connect the petitioner with the commission of offence, which is of moral turpitude and shall affect the entire society, hence, I am not inclined to exercise the discretion of bail in their favour. Resultantly, both the petitions stand dismissed.

Announced:

03.03.2017

Siraj Afridi P.S.

JUDGE