

## IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

### Criminal Bail Application No. S-303 of 2025

Applicant : Ghous Bux Pahore son of Khawand Bux,  
Through Mr. Shakeel Ahmed G. Ansari,  
Advocate

Complainant : Through M/s. Zafar Ali Malghani and  
Muhammad Azam Arbani, Advocates

Respondent : The State  
Through Mr. Nazeer Ahmed Bhangwar, DPG

Date of hearing : 18.07.2025

Date of order : 31.07.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** –Applicant Ghous Bux Pahore, seeks post arrest bail in a case bearing Crime No. 54/2025 registered at PS Saddar Jacobabad, for offence under Sections 354-A, 506/2, 34 PPC.

2. The brief facts leading to the registration of the FIR, as narrated by the complainant Mst. Shabiran, are that on 14-02-2025, while she was travelling with her father and brother, the accused persons, including the applicant Ghous Bux (her ex-husband), allegedly intercepted them, caused kicks and blows, forcibly dragged her, tore her clothes, and extended threats.

3. Learned counsel for the applicant, Mr. Shakeel Ahmed G. Ansari, argued strenuously for the grant of bail, advancing several grounds. He contended that the applicant is innocent and has been falsely implicated due to a deep-seated personal grudge, enmity, and malafide intention arising from ongoing family and property disputes between the parties. He highlighted that the complainant had previously initiated various legal proceedings against the applicant,

including Cr. Misc. Applications, which were dismissed, and a family suit for dissolution of marriage, suggesting a history of contentious litigation. A significant point raised by the learned counsel was the unexplained delay of five hours in lodging the FIR, despite alleged consultation with "nek-mards" whose identities remain undisclosed. This delay, coupled with the admitted background of disputes, renders the prosecution story highly doubtful and requires further inquiry. Learned counsel further emphasized that the eye-witnesses cited in the FIR, namely the complainant's father Moula Bux and brother Javed Khan, are not only closely related to the complainant but are also accused in FIR No. 56/2024 lodged by the present applicant at PS Naperkot. Their testimony, therefore, cannot be relied upon without minute scrutiny at trial, making them interested and setup witnesses. Crucially, learned counsel contended that the ingredients of Section 354-A PPC are conspicuously missing from the prosecution's narrative, rendering the applicability of this serious section questionable at this preliminary stage. He further pointed out that while the FIR initially nominated the husband and three of his brothers, a subsequent identification allegedly involved another brother of her ex-husband. He also highlighted the absence of any medical certificate to corroborate the allegations of physical assault or injury. Learned counsel specifically referred to FIR No. 30 of 2025 of PS Nakarkot filed by the complainant herself, which was subsequently B-Classified, indicating a history of unverified allegations. In support of his arguments, learned counsel for the applicant placed reliance upon the pronouncements: 2009 SCMR 913, 2012 MLD 824 Sindh, PLD 2018 Lahore 308, 1991 P.Cr.L.J 194, and 1997 P.Cr.L.J 600. These judgments generally underscore the principles of "further inquiry," the benefit of doubt at bail stage, and the cautious approach to be adopted when there are elements suggesting false implication or mala fides.

4. Conversely, the learned State Counsel duly assisted by the learned advocate for complainant opposed the grant of bail, arguing that the applicant is nominated in the FIR for serious offences, including an attempt to outrage the modesty of the complainant. He contended that there are reasonable grounds to believe the applicant's involvement in the alleged crime.

5. At this stage, without delving into the merits of the case, which is the domain of the trial court, this Court is primarily concerned with whether there are "reasonable grounds" to believe that the applicant has committed a non-bailable offence, or if there are "sufficient grounds for further inquiry into his guilt" within the contemplation of Section 497(2) Cr.P.C.

Section 354-A PPC reads as follows:

*"354-A. Assault or use of criminal force to woman with intent to disrobe or outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, or intending to disrobe or knowing it to be likely that he will thereby disrobe such woman, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both."*

The core ingredients of Section 354-A PPC are:

1. *Assault or use of criminal force to a woman.*
2. *With the intention to outrage her modesty, or knowing it to be likely that he will thereby outrage her modesty.*
3. *Or, with the intention to disrobe her, or knowing it to be likely that he will thereby disrobe such woman.*

6. Applying these ingredients to the facts alleged in the FIR, it is stated that the accused persons "forcibly put my hands & dragged on earth then my cloths were torn hence became naked." While the tearing of clothes is alleged, the critical element of *intent to disrobe* or *intent to outrage modesty* (specifically beyond the act of tearing

clothes in a scuffle) as the primary object of the assault needs closer scrutiny. The narrative suggests a scuffle leading to clothes being torn, rather than a deliberate, primary intent to disrobe or outrage modesty in the manner contemplated by Section 354-A PPC, especially when viewed in the context of the underlying family and property disputes. The primary purpose, as it appears, may have been to stop them and address the property dispute, leading to a scuffle where clothes were torn. This aspect certainly requires further inquiry to ascertain the true intent behind the alleged actions, especially in light of the pre-existing animosity.

7. The admitted history of acrimonious litigation, including previous unsuccessful attempts by the complainant to initiate criminal proceedings against the applicant, and the fact that the key witnesses are themselves involved in litigation with the applicant, casts a serious shadow of doubt on the veracity of the current allegations. The unexplained delay in lodging the FIR, despite consultation, further reinforces the contention of the defense that the case may be a concoction aimed at settling personal scores. Furthermore, the absence of any medical evidence supporting the alleged assault or the extent of disrobement is a significant lacuna in the prosecution's case at this stage. The B-Classing of a previous FIR (No. 30/2025 PS Nakarkot) filed by the same complainant against the applicant further undermines the credibility of the current allegations.

8. In light of the foregoing, particularly the strong indicators of underlying disputes and a possible malafide implication, the role of interested witnesses, the delay in FIR, and the questionability of the ingredients of Section 354-A PPC given the alleged facts, makes the case of applicant fall within the ambit of "further inquiry" as envisaged by Section 497(2) Cr.P.C. It is a well-settled principle of law that the benefit of doubt, even at the bail stage, goes to the accused. The

object of trial is to make an accused face trial, not to punish an under trial prisoner. For these reasons, the applicant Ghous Bux Pahore is admitted to bail subject to furnishing solvent surety in the sum of Rs. 100,000/- (Rupees One Lac) and PR bond in like amount to the satisfaction of learned Trial Court. This order shall not be construed as an expression of opinion on the merits of the case.

**J U D G E**

Asghar Altaf/P.A