HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Application No.S-1284 of 2025.

Applicant:	Khalid s/o Gul Muhammad alias Bacho Mahar through Mr. Asim Shabbir Soomro, Advocate.
Complainant:	Dildar Ali through Mr. M.M Taha Khan, Advocate.
Respondent:	The State through Ms. Sana Memon, Assistant Prosecutor General alongwith Investigation Officer / SIP Abdul Jabbar Rajput from PS Hala New.
Date of hearing:	12.12.2025.
Date of Decision:	12.12.2025.

O R D E R

MUHAMMAD HASAN (AKBER), J.- The applicant seeks post-arrest bail in a case bearing crime No.186/2025, for offence under Section 377-PPC of PS Hala New, District Matiari. Earlier the bail plea of applicant/accused was declined by the learned Additional Sessions Judge / Special Judge (Anti-Rape), Matiari vide order dated 07.10.2025.

2. The facts alleged in the FIR dated 09.08.2025 at 22:00 hours by the complainant Dildar Ali, is that his son, Sanaullah, a student of Class VII aged about 13 years, was returning home after offering Juma prayers. The accused, Khalid Mahar, a resident of Railway Colony, Hala, had rented a house near Dargah Mithal Shah, where his elder son, Imdad, was working to install window fittings. On that day, due to Friday, Imdad returned home earlier from work. While Sanaullah was on his way home, the accused Khalid misled him by telling him that his elder brother was calling him inside the house, wherein accused Khalid committed unnatural offence with the son of complainant namely Sanaullah.

3. Learned counsel for applicant / accused reiterated the grounds of bail application and further contended that the applicant is innocent and has been falsely roped in a criminal case; that the FIR is delayed for about one day and there is no plausible explanation in this regard; that the alleged offence is not made out from the alleged prosecution story and the same is fully falsify from the 164 Cr.P.C statement of the victim, which was recorded before the concerned learned Magistrate after lapse of one month; that the DNA report has also been received by the police, which is also in negative; that the case of applicant/accused requires further inquiry and entitles him for grant of bail.

4. Conversely, the learned Assistant Prosecutor General, duly assisted by the learned Advocate for the complainant, vehemently opposed the bail application, submitting that the applicant/accused has committed a heinous offence; that the applicant/accused is not entitled to the concession of bail. Prayed for the dismissal of the bail plea of the applicant/accused.

5. Heard learned counsel for the applicant / accused, learned counsel for the complainant and learned A.P.G, duly assisted by the Investigation Officer and have perused the available record with their assistance.

6. The provisions of the Anti-Rape (Investigation and Trial) Act 2021, *inter alia,* provides for "**Establishment of Special Courts**" under section 3; "**Anti-Rape Crisis Cells**" under Sections 4 and 5; provision for "**Legal Assistance**" under section 6 and "**Victim and Witness Protection**" under section 8; specialised mechanisms for "**Investigation in respect of Scheduled Offences**" and creation of "**Special Sexual Offences Investigation Units (SSOIU)**" under section 9; "**Independent Support Advisers**" under section 11; "**In-Camera Trial**" under Section 12; Special Mechanisms for "***Evidence and Guidelines***" under Section 13; earliest recording of "**Statement under Section 164 of the Code**" under section 14; formation of "**Special Committee**" at Provincial levels; "**Compensation to Victims**" under Section 17; "**Preventive action by Police**" under section 21; maintenance of "**Register of Sex-Offenders**" under section 24; and "**Non-reporting of identity of Victims**" under section 26. From a bare reading of these provisions, it is evident that specialised measures have been adopted to provide improved and expeditious investigation and trial; so also financial, legal and psychological assistance, advisory and protection to the victims, the witnesses, and to protect their identities.

7. From the above summary, it is evident that the object and purpose for promulgation of Anti-Rape (Investigation and Trial) Ordinance, 2020, and the subsequent enactment of the Anti-Rape (Investigation and Trial) Act 2021 are to eradicate sex violence, through specialized efforts, *inter alia,* by providing support to the victims and improving the investigation and trial mechanisms in cases of sexual assaults. As held in the case of ***'Asir v. The State and another'*** **(PLD 2022 Lahore 263)**, Investigation of cases in sexual assault always remains a focal point for the reformers of the criminal justice system, as investigation of a criminal case is bedrock for carrying out successful prosecution of a criminal case; and therefore, flawed investigation often results in miscarriage of justice. Police officers are the "gatekeepers"

of the criminal justice system and are usually the first to meet crime victims as such, they exert major influence on both the victim and the case. It was further held that Section 22 of the law clearly provides that a police officer entrusted with investigation of Scheduled Offences can be punished with imprisonment of either description which may extend to three years and with fine, if he does not carry out investigation properly or diligently and it goes without saying that any investigation in violation of law cannot be termed as proper and diligent.

8. In ***'Sumera v. The State and 5 others'*** (2024 PCr.LJ 1783), it was held that the Act, 2021 ensures various fundamental rights guaranteed by the Constitution and to discharge obligations under international law to address the issue of sexual violence and bring offenders to justice. The Act is aimed at effectively dealing with rape and sexual abuse crimes. Section 9 of the Act is mandatory, which confers special jurisdiction on SSOIUs in respect of the Scheduled Offences, and for such purpose, it mandated the Federal Government to establish SSIOUs for the Capital Territory and the Provincial Governments in every District. In the Province of Sindh, SSIOU is fully operational, whereas Standard Operating Procedures (SOPs) for operational efficiency are also being evolved and are at the stage of approval and implementation.

9. The prosecution case, as stated in the FIR lodged by the complainant Dildar Ali, is that his son, Sanaullah, a student of Class VII aged about 13 years, was returning home after offering Juma prayers. The accused, Khalid Mahar, a resident of Railway Colony, Hala, had rented a house near Dargah Mithal Shah, where his elder son, Imdad, was working to install window fittings. On that day being Friday, Imdad returned home earlier from work. While Sanaullah was on his way home, the accused Khalid enticed and misled him by telling him that his elder brother was calling him inside the house, wherein the accused Khalid committed unnatural offence with the complainant's son, Sanaullah. Upon tentative assessment of the material available on the record, it has been straightaway noticed that the applicant / accused is directly nominated in the FIR with a specific role. Furthermore, the statement of the child/victim, Sanaullah, who is aged about 13 years, is recorded under Section 164 Cr.P.C. before the learned Judicial Magistrate. There is no material on record to suggest that either the complainant or the victim had any prior enmity or ulterior motive to falsely implicate the applicant/accused in an offence of such a serious nature. The accused has therefore been directly nominated in the FIR and has also been directly nominated in the statement under section 164 Cr.PC. by the child/victim. No enmity whatsoever has even been alleged by the applicant as against the child/victim, nor against his father or

brother. As already narrated in the FIR, the child narrated the incident to the father and two relatives whereafter the victim, along with his father, approached hospital for medical examination, treatment, and the issuance of a medical certificate on a police letter. Following the examination, the FIR was lodged. In these circumstances, the victim being a minor/ child, delay of a few hours in lodging FIR would not be material. As a settled principle, a deeper appreciation of evidence at the bail stage has been deprecated by the Honourable Supreme Court in multiple cases. The nature of the alleged offence clearly falls within the prohibitory clause of Section 497(1) Cr.P.C., thereby disentitling the applicant/accused from the concession of bail. Child molestation is a menace in today's society, which has to be dealt with very diligently, and persons involved in such offences cannot be let loose unless some sort of strong evidence is brought on record.

10. In these circumstances, therefore, on a *prima facie* assessment and without touching the merits of the case, I am of the tentative view that the applicant is not entitled to be admitted to bail at this stage. The Bail Application being devoid of merits is therefore dismissed, with the direction to the learned trial Court to decide the main case within a period of three months, without being influenced by any observations made in this Order, which are tentative in nature. These are the reasons for my short Order dated 12.12.2025.

JUDGE