

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.849 of 2026

Applicant : Shahi Sardar
son of Muhammad Jaleel
Through Mr. Naseem Ahmed Siyal,
advocate

Complainant : Muhammad Irfan
son of Muhammad Ramzan
Through Ms. Asiya Munir advocate

The State : The State: Through M/s.
Sharafudddin Kanhar, APG &
Ms. Rukhsana Mirjat, ADPP

Date of hearing : 30.04.2026

Date of Order : 30.04.2026

ORDER

Jan Ali Junejo, J:-- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant Shahi Sardar son of Muhammad Jaleel, who seeks his release on bail in connection with FIR No.43 of 2026 registered at Police Station Gulshan-e-Maymar, Karachi for the offences punishable under Sections 365/376/506/34 PPC. The applicant has approached this Court being aggrieved by the order dated 11.03.2026 passed by the learned Additional Sessions Judge-X, Karachi West [Court for Gender Based Violence Cases] whereby his bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that on 13.01.2026, while the complainant Muhammad Irfan was present at his house, he received information on his mobile phone that his sister namely Mst. Misbah D/o Muhammad Ramzan aged about 17/18 years, who was employed as a domestic worker at Ajmair Garden, Gulshan-e-Karachi, had left the said place after completion of her work at about 1330 hours and had gone missing at about 1600 hours. Thereafter, his mother informed him that despite

searching for her at various places, she could not be traced. Subsequently, at about 1900 hours, his sister Mst. Misbah Bibi returned home in an unconscious condition, whereupon she was immediately taken to P.S. Gulshan-e-Maymar, from where a medical letter was issued, and thereafter, along with LPC Sana Nusrat and RPC Mujeeb, she was taken to Abbasi Shaheed Hospital for medical examination and treatment, after which they returned home. The complainant has now come to lodge the report and stated that his sister informed him that after completing her work at about 1330 hours, when she reached the gate of the building, two persons, namely Sardar and one unknown but identifiable person, forcibly abducted her in a white-coloured car after enticing her, due to which she became unconscious, and at about 1900 hours they abandoned her near her house, hence this FIR.

3. Learned counsel for the applicants contended that the applicant is innocent and has falsely been implicated in the present case due to ulterior motives and for the purpose of blackmail. He submits that the applicant was not present at the place of incident, which is evident from the CDR of his mobile phone, the movement report of his vehicle issued by the tracking company, and the CCTV footage showing his presence at the vegetable market in connection with his business activities at the relevant time. He further submits that in her statement recorded under Section 164 Cr.P.C., the alleged victim neither leveled any direct allegation against the applicant nor nominated him as the kidnapper, and that there are material contradictions between the FIR and the said statement. Learned counsel further argues that the DNA report is negative and the Investigating Officer, after conducting investigation, recording statements of relevant persons, and obtaining forensic reports, concluded in the interim charge-sheet that no substantial evidence was available against the applicant. He contends that the learned trial Court failed to properly appreciate the material available on record as well as the case law cited by the defence. According to

learned counsel, there is no incriminating material connecting the applicant with the alleged offence, the prosecution case rests upon bald allegations and prayed that the applicant may be admitted to bail.

4. Conversely, the learned APG assisted by learned counsel for the complainant opposes the bail application. They submit that the Applicant has been specifically named with a clear and detailed role in the FIR as well as in the victim's statement recorded under Section 164, Cr.P.C., before the Judicial Magistrate. They contend that the offences of rape and kidnapping for zina fall squarely within the prohibitory clause of Section 497, Cr.P.C., thereby limiting the Court's discretion to grant bail. They argue that although the victim is an adult, the manner in which she was enticed, deceived, transported, and sexually exploited squarely constitutes trafficking in persons under the 2018 Act. They submit that the medical report supports the allegation of violence and is consistent with the victim's account. They submit further that strong prima facie evidence exists against the Applicant. Accordingly, they pray that the bail application be dismissed.

5. This Court has given anxious consideration to the submissions advanced on behalf of the parties and has examined the record with utmost care. On a tentative assessment of the material available on record, it appears that the applicant was specifically nominated in the FIR and the victim in her statement recorded under Section 164, Cr.P.C. before the learned Judicial Magistrate has fully corroborated the version as set out in the FIR by reiterating the allegations against the applicant. The victim has consistently attributed to the applicant acts of deceit through false representation, forcible transportation, wrongful confinement, criminal intimidation, and commission of rape. It is well-settled that a statement recorded under Section 164, Cr.P.C. carries substantial evidentiary value at the bail stage, particularly when such statement is recorded by a Magistrate after

satisfying herself regarding its voluntariness. The applicant stands accused of offences punishable under Sections 365-B, 376, and 506, P.P.C., which squarely fall within the prohibitory clause of Section 497, Cr.P.C.; therefore, the concession of bail can only be extended where the allegations appear to be manifestly false, frivolous, or inherently improbable on the face of the record, circumstances which, prima facie, are not attracted in the present case.

6. The applicant is charged with offences punishable under Sections 365-B, 376, and 506, P.P.C., all of which fall within the prohibitory clause of Section 497, Cr.P.C. In offences falling within the prohibitory clause, the concession of bail can only be extended where the accusation appears to be patently false, inherently improbable, or mala fide on the face of the record. At this stage, no such exceptional circumstance is discernible from the material available before the Court.

7. So far as the contention of learned counsel regarding the DNA report is concerned, the same does not appear to be helpful to the applicant at this stage. Rather, the forensic material collected during investigation prima facie supports the prosecution case and lends corroboration to the allegations leveled by the victim. It is also a settled principle of law that absence of visible injuries or minor discrepancies in medical evidence do not, by themselves, negate the allegation of rape. At the bail stage, medical and forensic evidence is to be examined tentatively and cannot override a direct and voluntary judicial statement of the victim recorded under Section 164, Cr.P.C. The material presently available on record discloses a specific role attributed to the applicant, a judicial statement supporting the prosecution case, medical findings consistent with the allegations, and forensic evidence providing prima facie corroboration to the occurrence. The cumulative effect of such material prima facie connects the applicant with the commission of

the alleged offences and, therefore, the case does not call for further inquiry within the contemplation of Section 497(2), Cr.P.C.

8. From the tentative assessment of the record, it further appears that the allegations leveled against the applicant are grave and heinous in nature; the victim has specifically identified and implicated him; investigation against him has already been completed; and the matter is now pending trial before the competent Court of law. In such circumstances, no exceptional ground is made out warranting the grant of the extraordinary concession of post-arrest bail to the applicant.

9. For the reasons recorded above, this Criminal Bail Application filed on behalf of the Applicant is dismissed. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

These are the detailed reasons of the Short Order dated: 30.04.2026.

JUDGE