

## IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.1698 of 2025  
*'Salahuddin Durrani versus 'The State'*

Criminal Bail Application No.1631 of 2025  
*'Muhammad Fahad Ali versus The State'*

Criminal Bail Application No.2328 of 2025  
*'Faiza Irum versus The State'*

Makhdoom Muhammad Talha, Advocate for Applicant in Cr. Bail Application No.1698 of 2025.

Ms. Umme Kulsoom, Advocate for Applicant in Cr. Bail Application No.1631 of 2025.

Mr. Muhammad Ismail Meo along with Mr. M. Adeel, Advocates for Applicant in Cr. Bail Application No.2328 of 2025.

Mr. Azhar Ali Advocate, along with the victim and the complainant.

Mr. Tahir Hussain Mangi, APG along with Irfan Baloch PSP DIGP West Zone Karachi, Adil Memon PSP SSP CTD/Intelligence Sindh, Karachi, Dr. Anam Tajamul, PSP SSP Investigation Central, Karachi, Inspector Ms. Anila Qadir, SSOIU, Karachi, I.O./Sub Inspector Mujahid Hussain Siyal SSOIU, Mushtaq Ahmed Abbasi, PSP AIGP Legal CPO Sindh, Karachi.

Date of hearing: 22.11.2025

Date of decision: 04.12.2025

### ORDER

**MUHAMMAD HASAN (AKBER), J.-** Through this consolidated order, the subject bail applications are being decided, which have emanated from the same proceedings, arising out of FIR No.122/2025, registered at Police Station North Nazimabad, District Central Karachi for offence under Section 365-B, PPC. The Applicants are aggrieved by the Order(s) dated 14.05.2025 ("impugned Order") whereby the learned Additional Sessions Judge-II, Central Karachi dismissed their post-arrest bail applications in the aforesaid FIR.

2. It was alleged in the FIR dated 27.03.2025 by the complainant/father of the victim that he is a laborer, his my daughter, namely, Aqsa Bano, who is working as in "Iqra School" of vicinity. On 26.03.2025, she left for matric board office from home for some school work. At about 05:00 pm, she called from her Cell No.03273369926, on my younger daughter Iqra's No.03314922555 and told that one Car No.CW-5981 is after her since past 2 days and today when I was coming back home is chasing her, after that her phone was power off. At around 08:00 pm her phone got switched on and my daughter Iqra called on my daughter Aqsa's number, when some unknown person picked up the call and informed that this phone was found near board office,

when Iqra again called, Aqsa's phone was switched off, which was constantly powered off and my daughter Aqsa didn't come back home. Complainant along with his kids searched her at his relatives but all in vain, therefore, he came to Police Station and reported complaint against unknown persons, who kidnapped his daughter Aqsa, having Car No.CW-598, 1with intent to rape.

3. The FIR was registered on 27.3.2025, Interim challan was submitted on 27.03.2025, final Challan was submitted on 16.04.2025 and supplementary challan was submitted on 27.05.2025, whereas statement of the victim under section 164 Cr.PC was recorded on 12.04.2025. The accused were arrested on 11.04.2025.

4. Learned counsel for applicants have argued that the applicants are innocent and have been falsely roped in this case; that there is substantial delay in lodging of the FIR; that the applicants were not nominated in the FIR; that no allegation has been raised against the applicants and no specific role has been attributed to them; that there are contradictions in the statement of the victim as recorded under section 161 and 164 Cr.PC; that strict compliance of the Anti-Rape (Investigation and Trial) Act 2021 ["Act 2021"] have not been carried out; that there are material discrepancies in the investigation carried out by the present Investigation Officer; that there is nothing in the Medical Report to support the victim's version; that female accused, Mst. Faiza is operating her beauty parlour and is entitled to bail under the provisos to section 497 Cr.PC. Learned counsel also pointed out that even the Charge dated 23.08.2025 in the instant case has not been framed properly by the learned trial Court. In support of is submissions, learned counsel for applicants has placed reliance upon 2024 SCMR 14, 2023 SCMR 184, 2023 MLD 73, 2018 PCRLJ Note 132, 2018 PCRLJ Note 86.

5. Conversely, the learned APG for the state vehemently opposed the bail applications and pointed out the role of each of the applicants/ accused persons is described in supplementary challans. He further argued that the victim has specifically named each of the present applicants with specific roles attributed to each of them. He has also drawn the attention of the Court to an admitted document of the police department, which shows that applicants/ accused Farhan and Faiza are husband and wife, however, they both verbally denied the same in Court. He further argued that friendship and contacts inter se the three accused persons and the living of the victim with them for 14 days during the alleged period are admitted, as recorded in the supplementary report by the I.O. (available at pages 51-55 of the bail

application 1698/2025). He also pointed out towards deliberate destruction of material evidence by the accused. Further submitted that SSOIU established in line with the Act 2021, is investigating, and the matter is already before the learned special Court. Although he candidly stated that the investigation in this sensitive case of rape ought to have been conducted properly, however submits that any flaw in the investigation by the I.O shall not benefit the accused, but the appropriate course would be to complete an impartial and honest investigation so that accurate facts would come on record. Reliance was placed upon 2017 SCMR 283, PLD 2019 SC 261, 2019 YLR 2287.

6. Heard the learned counsel for the applicants, learned APG, the victim and her father/ complainant, and also examined the record with their able assistance.

7. From perusal of the record, it transpires that there are two sets of incidents in the present case. In the first incident of rape, the summary of the allegation by the victim is that on 26.03.2025, while she was going on a rickshaw from Lyari to the Board Office, Karachi, she was followed by Car No.CW-5981, regarding which she also sent a message to her sister. Upon listening of such conversation between the victim and her sister, rickshaw driver refused to carry her further towards her destination and dropped her from the rickshaw instantly. In the meanwhile, the car which stalking her, intercepted and kidnapped her, thereafter, she was intoxicated; when she became conscious she found that she is detained in a room, wherein during her captivity she had been subjected to rape at multiple times. Since the present applicants are not concerned with the first incident of rape, the arguments presented by the learned counsel pointing out alleged discrepancies in the investigation with respect to the first incident of rape would be of no material consequence.

8. As regards the second incident of rape, summary of the allegations by the victim is that after the first incident, she sought help from Salahuddin and Faiza who operates a beauty parlour, and was introduced to Fahad, and she was kept in confinement for 14 days in the apartment of Fahad / Faiza, and was raped by Salahuddin with the active facilitation of co-accused Faiza and Fahad. During the course of hearing, the victim clearly stated that she was compelled multiple times by I.O., along with some lady, to change her statement and even her medical checkup and the collection of other evidence were circumvented and being diverted by the I.O.

9. **Firstly**, since the present applicants are not concerned with the first incident of rape, any arguments presented by the learned counsel pointing out any discrepancies in the investigation with respect to the first incident of rape would be of no material consequence. Secondly, the complainant present in person states that initially, the FIR was registered by him being father of the victim and since at that time the complainant was only aware about the incident of kidnapping, as gathered from the text message of the victim to her sister, therefore, the complainant was not aware about the incident of rape in the two set of incidents, therefore, the FIR was registered under section 365-B PPC. It was only later on, when the victim returned that two sets of incidents were discovered and based thereon supplementary challan was submitted, wherein the three present accused persons were specifically nominated. This, on a tentative assessment and at the stage of hearing of bail, amply explains the reasons as to why the present applicants were not specifically nominated in the FIR and also satisfactorily responds to the claim of delay in lodging the FIR. Thirdly, as regards to the second incident of rape, the victim has also clearly nominated in her statement under section 164 Cr.PC, each of the present accused/applicants with their specific role; the connection between them; with apartment number and location; with the allegation of rape and facilitation; and pressure from the I.O. to change her statement and to divert her medical checkup and the collection of other evidence by the I.O.

10. To consider the fourth aspect of the matter, the scheme of law needs to be evaluated, starting with the provisions of the Anti-Rape (Investigation and Trial) Act 2021 which, 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; specialized 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 specialized 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.

11. From the above, 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.

12. 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 Special Sexual Offences Investigation Units (SSOUIs) in respect of the Scheduled Offences, and for such purpose, it mandated the Federal Government to establish SSOUIs for the Capital Territory and the Provincial Governments in every District.

13. In the Province of Sindh, as reported by the senior officers present in Court, SSOUI is fully operational, whereas Standard Operating Procedures (SOPs) for operational efficiency have also been evolved, and the Inspector General of Police Sindh is making active personal efforts for approval and implementation thereof. The efforts appear to be moving in the right direction and are appreciated, enlightening the hope that proper implementation of the Act would result in protection and support to

the victims, improved investigations, expeditious trials, and the ultimate reduction in this category of heinous crimes.

14. Having discussed the scheme of law on this specialised subject, we now turn to the fourth aspect of the matter. In the present case, it was discovered during course of hearing that during investigation, the I.O. let off the owner of one of the vehicles involved in the first set of rape incident, on the premise that he was not identified by the victim without considering that the victim clearly stated that she could only identify those persons who were present at that time in the car and committed rape with her in the first incident. The I.O also did not collect evidence with respect to the text message sent by the victim to her sister, nor did he try to investigate the people present at the said location from where she was kidnapped. Even with respect to the second incident of rape, the I.O. did not collect a large amount of available evidence of the relevant people, including CCTVs, CDRs, clothes etc., which I am deliberately not discussing here lest it may prejudice the case of the present applicants. During the course of hearing also on 15.11.2025, the I.O. was unable to assist this Court and could not respond to even basic queries about the investigation conducted in this case. The learned APG also pointed out towards such conduct of the I.O, based whereon, in order to seek proper assistance, senior Investigation Officer(s) were called to assist this Court. On 22.11.2025, the senior officers, besides depicting various efforts being made by the Sindh Police Department for improvement of investigations in rape cases, also candidly submitted that the investigation in this case not conducted with due care and caution, as per the standards envisaged under the Act 2021, and also undertook to conclude proper investigation of both sets of incidents of rape within a short time by an independent officer, which will bring on record accurate investigation and facts in both sets of the alleged rape. Here, it would also be pertinent to note that Section 9(4) of the Act, 2021 mandatorily requires a change of investigation to the District Head of Investigation in case of reasonable dissatisfaction of the victim regarding the investigation. The provision stipulates:

**"9-(4) In case the complainant in relation to an offence under Schedule-II expresses dissatisfaction which is based on reasonable grounds, the investigation shall be transferred to the district head of investigation of the police."**

15. Use of the words "**shall be transferred**" leaves no room for any other option but to transfer the investigation. In the instant case, during the course of the hearing,

the victim has repeatedly expressed her dissatisfaction in open Court on the investigation and has also openly expressed that she was repeatedly pressurized by the investigation officer, along with some lady, to change her statement. Other incidents of such conduct have already been recorded in this Order, which are not being repeated for brevity's sake. The statement by the learned APG and the senior police officers present in Court gives further credence to the victim's dissatisfaction, and in these circumstances, the most appropriate course would be to implement Section 9(4) of the Act 2021 in letter and spirit. The situation also points towards the overall need to evolve and improve strong monitoring mechanisms, by the District Head of the Investigation, over the investigating officers working under them and on each investigation, so that the voices and concerns of the victims may timely reach to their ears, before it becomes too late, and before the entire investigation is compromised. In this case, the concerned officers, Dr. Anam Tajamul, PSP, SSP Investigation Central, Karachi and Inspector Ms. Anila Qadir, SSOIU, Karachi, are present in Court and attending to the issue.

16. As regards the benefit of any deficiency in the investigation or inefficiency on part of the investigation officer, the arguments and case law submitted by the learned APG appear to be based upon a correct understanding of the law as enunciated by the Hon'ble Supreme Court and this Court, that improper investigation or inefficiency of the Investigation Officer are not to be interpreted to the benefit of the accused, but overall material before the Court is to be seen to connect the accused with the commission of crime. Hence, in the case of **'The State/ ANF v. Muhammad Arshad'** (2017 SCMR 283), it was held that:

"6..... We may mention here that even where no proper investigation is conducted, but where the material that comes before the Court is sufficient to connect the accused with the commission of crime, the accused can still be convicted, notwithstanding minor omissions that have no bearing on the- outcome of the case...."

17. In the case of **'Khadija Siddiqui and another v. Shah Hussain and another'** (PLD 2019 Supreme Court 261), the Honourable Supreme Court held:

"Any inefficiency on the part of the said investigating officer in securing any blood-stained article from inside that motorcar was insufficient in the circumstances of this case to conclude that the two injured victims had not been injured at all or that no blood had spilled inside that motorcar at the time of taking place of the occurrence."

18. In the case of '**Sartaj Khan v. The State**' (2019 YLR 2287), a Division Bench of this Court pronounced that:

"Moreover, a procedural formality cannot be insisted at the cost of completion of an offence and if an accused is otherwise found connected, then mere procedural omission and even allegation of improper conduct of investigation would not help the accused. The reference in this context is made to the case of the State/ANF v. Muhammad Arshad (2017 SCMR 283)."

19. Based upon the material placed before this Court so far, it appears that the victim has specifically named all the three applicants/accused persons in the second set of rape incident; has attributed specific roles to each of them; the document on record of the police department shows the applicant/ accused Faiza and Farhan as husband-wife, which is being denied by them; the contacts between the victim and the three applicants/accused is not denied by the applicants; physical presence of the victim for 14 days at the apartment is not denied by anyone of the applicants; and the learned APG so also senior police officers submit that proper investigation under the Act, 2021 has not been conducted and have given undertaking to conclude the same within a week. As regards the plea of first proviso to Section 497, Cr.PC, there appears every likelihood that female applicant Faiza, who claims to be operating a beauty parlour but alleged by the victim to be facilitating in the alleged rape so also allegedly preparing other various girls for the same crime, if set-free at this stage, is most likely to influence the witnesses, temper the evidence and hamper the investigation. No material to even remotely suggest any prior enmity or mala fide intentions on the part of the victim is available on record. The offences spelt out clearly fall under the prohibitory clause of section 497 Cr.PC. The ratio settled by the Hon'ble Supreme Court in the above-discussed cases guides that any deficiency in the investigation is not to be construed in favour of the accused person, but overall material before the Court is to be seen. This being the stage of hearing of bail, a deeper appreciation of the evidence would not be permissible. 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 applicants are not entitled to be admitted to bail at this stage, until such independent investigation is completed as per the statement given by the senior officers, which is likely to be completed within a period of one week from this Order. It is, however, observed that the present applicants will be at liberty to move fresh bail application(s) before the learned trial court, if so advised, as soon as such investigation is concluded, and the final Report

is submitted. It is further observed that the learned trial Court, while dealing with such fresh bail application(s) of the applicants, if any, shall not be prejudiced by any observations made in this Order, which are tentative in nature.

20. All three titled bail applications are, therefore, dismissed in the above terms. The office is directed to place a copy of this Order in all connected Bail Applications; and send a copy of this Order to the Inspector General Police Sindh for compliance.

21. Before parting with this order, the assistance provided by the learned APG Mr. Tahir Hussain Mangi, Mr. Talha Makhdoom and Advocates for other applicants, and the IGP Sindh office is appreciated.

**J U D G E**