

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2016 of 2026

Applicant : Muhammad Sharif son of Azizullah
Khaskheli through Mr. Wahid Hussain
Khaskheli, Advocate

Criminal Bail Application No.2593 of 2026

Applicant : Dost Muhammad son of Pinjial through
Mr. Khalid Hussain Suhag, Advocate

Complainant : Muhammad Afzal son of Abdul Ghani
through Mr. Harchand Rai, Advocate

Respondent : The State, through Mr. Sharaf-u-Din
Kanhari, Assistant Prosecutor General,
Sindh

Date of Hearing : 04.09.2026

Date of Decision : 04.09.2026

ORDER

Jan Ali Junejo, J.- By this common Order, I propose to decide Criminal Bail Application No.2016 of 2026, filed by Applicant-Muhammad Sharif son of Azizullah Khaskheli and Criminal Bail Application No.2593 of 2026, filed by Applicant-Dost Muhammad son of Pinjial. Both Applicants seek post-arrest bail in a case arising out of FIR No.512 of 2025, registered at Police Station Orangi Town, Karachi, for offence punishable under Sections 365-B PPC, 3(i) of Prevention of Trafficking (In Person) Act, 2018 read with Section 3/4 Child Marriage Act, 2013. Their earlier bail applications were dismissed by the learned Additional Sessions Judge-X Karachi West *vide* Orders dated 01.07.2026 and 06.08.2026, respectively.

2. The brief facts of the prosecution case, as set out in the FIR, are that on 30.11.2025 at 09:00 p.m., Complainant, namely, Muhammad Afzal son of Abdul Ghani, lodged an FIR at Police Station Orangi Town, Karachi, alleging therein that he being a Government servant posted at the Airport, was present at his house on Sunday along with his wife and children. He asked his daughter, namely, Shabiran, aged about 15/16 years, to prepare tea; however, after serving the tea, she went to the rooftop and remained missing for about three hours. The Complainant stated that a boy, namely, Ayaz Ali Lashari, had been repeatedly calling

their mobile/house number for the last 3/4 months, despite being restrained from doing so. He thus expressed suspicion that Ayaz Ali Lashari had abducted his minor daughter Shabiran for the purpose of marriage, zina or other personal motives, and requested legal action.

3. Learned Counsel for the Applicant, in Criminal Bail Application No.2016 of 2026, contended that the Applicant is innocent and has falsely been implicated in the present case. He submitted that although the Applicant was not nominated in the FIR, his implication was subsequently reinforced through the further statement of the Complainant, without attribution of any specific overt act to him. Learned Counsel further submitted that Ms. Shabiran had solemnized marriage with one Sardar Khan on 03.12.2025 of her own free will and had also executed an affidavit, duly attested by the Oath Commissioner, declaring that she had neither been abducted nor enticed by anyone. It was further argued that no eyewitness has been cited by the prosecution and that there is no material showing the presence of the Applicant at the place of occurrence. According to learned Counsel, the prosecution has relied principally upon the Call Detail Record (CDR), which, by itself, does not establish the Applicant's participation in the commission of the alleged offence. It was contended that the Applicant has no nexus with the principal accused or with the alleged occurrence. Learned Counsel also referred to Constitutional Petition No.2239 of 2025, filed by Ms. Shabiran and Sardar Khan before this Court, Circuit Court, Hyderabad. It was submitted that during the proceedings of the said Constitutional Petition, Ms. Shabiran categorically stated before the Investigating Officer that, being sui juris, she had contracted marriage with Sardar Khan of her own free will and that she had not been abducted by anyone. The Investigating Officer, according to the record, informed the this Court that, in view of the statement of Ms. Shabiran, he would submit his report before the competent Court strictly in accordance with law. Learned Counsel further submitted that the Applicant has remained in judicial custody since his arrest, the investigation has been completed, and no further recovery or investigation is required from him. It was thus contended that the case of the Applicant squarely falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C., and that he is entitled to the concession of bail.

4. Learned Counsel for the Applicant, in Criminal Bail Application No.2593 of 2026, contended that the Applicant is innocent and has been falsely implicated with malafide intention. He argued that the name of the Applicant was not nominated in the FIR, the only allegation against him is

to solemnization of Nikah and his role begins and ends with the recitation of Nikah. He further argued that no element of force, deceit or conspiracy is attributed to the Applicant, the offences alleged do not fall within the prohibitory clause of Section 497 Cr.P.C., and that the investigation has been completed, challan submitted and the Applicant is no longer required for custodial interrogation. He lastly prayed for grant of bail.

5. Conversely, learned Counsel for the Complainant as well as learned Assistant Prosecutor General, Sindh opposed the bail applications. They contended that the Applicant(s) actively facilitated and participated in the commission of the alleged offence and remained in telephonic contact with the principal accused from the inception of the occurrence until its culmination. It was further submitted that the principal accused as well as the alleged abductee are still absconding and have not been recovered. Learned Counsel also pointed out that the bail application of the co-accused had already been dismissed by the learned trial Court. According to the prosecution, sufficient incriminating material has surfaced during investigation, particularly the CDR, which, prima facie, establishes a close nexus between the Applicant(s), the principal accused and the alleged abductee. Learned Counsel for the Complainant further produced the birth certificate of the alleged abductee and contended that she was a minor at the relevant time and had not attained the age of eighteen years. It was therefore argued that the provisions of the Sindh Child Marriage Act, 2013, are attracted to the case. On these grounds, dismissal of the bail applications was sought.

6. I have heard learned Counsel for the Parties at considerable length and have carefully examined the available material on record with their valuable assistance.

7. It is an admitted position emerging from the record that the alleged abductee, Ms. Shabina, subsequently contracted marriage with Sardar Khan and executed an affidavit, duly sworn and attested by the Oath Commissioner, wherein, she stated that she had entered into the marriage of her own free will and had not been abducted or enticed by anyone. The said material assumes significance at the bail stage, particularly when the question of the Applicants' alleged participation in the offence is to be examined on the touchstone of reasonable grounds.

8. The record further reflects that Constitutional Petition No.2239 of 2025 was filed by Ms. Shabiran and Sardar Khan before this Court, Circuit Court, Hyderabad. During those proceedings, the Investigating Officer

recorded the statement of Ms. Shabiran, wherein, she categorically maintained that, being sui juris, she had contracted marriage with Sardar Khan of her own free will and that nobody had abducted her. The Investigating Officer also stated before this Court that, in view of her statement, he would submit his report before the competent Court for disposal of the matter in accordance with law.

9. At this stage, therefore, the allegation of abduction, which constitutes the foundation of the principal charge, does not appear to be free from doubt. More importantly, no independent material has been pointed out which would prima facie establish that the present Applicant abducted, enticed, confined or otherwise facilitated the alleged abduction of Ms. Shabiran. Neither has his presence at the place of occurrence been shown through any independent evidence, nor has any specific overt act been attributed to him.

10. The prosecution has placed considerable reliance upon the CDR. However, mere telephonic contact, without something more to demonstrate the nature and purpose of such communication and its direct nexus with the alleged offence, requires deeper appreciation of evidence, which is not permissible at the stage of deciding a bail application. The evidentiary value and interpretation of the CDR are matters to be determined by the learned trial Court after recording evidence. At the present stage, the CDR alone cannot be treated as conclusive proof of the Applicant's participation in the alleged offence.

11. So far as the question of age of Ms. Shabiran is concerned, learned Counsel for the Applicant has placed on record a document relating to the correction/ mutation of her birth record, which, according to the Applicant, reflects her age as nineteen years. The prosecution, on the other hand, relies upon another birth certificate and maintains that she was below eighteen years of age at the relevant time. This conflict regarding the actual age and genuineness/ evidentiary worth of the respective documents is a matter which requires proper examination and proof through evidence before the learned trial Court. At the bail stage, this disputed question cannot conclusively be resolved in favour of either side.

12. So far as the allegation against Applicant-Dost Muhammad is concerned, record reflects that his name was later implicated on the basis of the statement of Ms. Shabiran, recorded under Section 161 Cr.P.C., by the Investigating Officer, wherein, she has stated that her Nikah with Sardar Ali was recited by Applicant-Dost Muhammad, acting as Nikah

Khuwan. No allegation of abduction, confinement, rape or facilitation thereof has been levelled against him. The challan confines his role exclusively to recitation of the Nikah. The Investigating Officer has not collected oral or documentary evidence showing that he had prior knowledge, or shared any common intention with, the principal accused. The age of the girl, as reflected in the record, is about fifteen/ sixteen years, and even if such Nikah was solemnized, owing to age does not by itself attract the ingredients of Section 365-B PPC.

13. It is also well settled that while deciding a bail application, the Court is not required to conduct a deeper appreciation or a tentative assessment of the evidence in the manner applicable at the trial. The Court is required to examine whether reasonable grounds exist for believing that the accused has committed an offence or whether the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. In the present case, the material available on record, particularly the voluntary affidavit and statement of the alleged abductee, the absence of any eyewitness attributing a role to the Applicant, absence of any specific overt act, the disputed question of age, and the fact that the alleged nexus is sought to be established primarily through the CDR, collectively create circumstances requiring further inquiry.

14. The fact that the co-accused has been denied bail, by itself, does not disentitle the present Applicant(s) from claiming the same relief, particularly where his individual role and the nature of evidence against him have to be assessed separately. Bail is to be determined on the basis of the material available against each accused and the circumstances peculiar to his case.

15. It is further noted that the Applicants have remained in judicial custody, since their arrest and the investigation has already been completed. No specific purpose for their further incarceration has been demonstrated by the prosecution. In these circumstances, continued detention of the Applicants, when the material presently available raises questions requiring further inquiry, would not serve any useful purpose.

16. For the foregoing reasons, I am of the considered view that the case of the Applicants presently falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. Consequently, the Applicants have made out a case for the grant of post-arrest bail.

17. Accordingly, these Criminal Bail Applications are allowed. Applicants, namely, Muhammad Sharif son of Azizullah Khashkheli, in

Criminal Bail Application No.2016 of 2026 and Applicant-Dost Muhammad son of Pinjal, in Criminal Bail Application No.2593 of 2026, are admitted to post-arrest bail subject to their furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) each and P.R. bond in the like amount to the satisfaction of the trial Court.

18. Needless to observe that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the trial. The learned trial Court shall decide the case strictly on the basis of the evidence brought before it, uninfluenced by any observation contained in this order. Bail applications stand disposed of in the above terms.

JUDGE

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