

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1578 of 2026

a/w

Criminal Bail Application No. 1331 of 2026

Applicant [in Cr. B.A No.1578/2026]	:	Naveed ur Rehman Son of Hanif ur Rehman Through Mr. Ameer Manzoor advocate
Applicants [in Cr. B.A No.1331/2026]	:	1. Faheem Shahzad S/o. Muhammad Sadiq 2. Nasru Khan @ Nasru Pathan Son of Zirat Gul Through Mr. Amir Shahzad, advocate
Complainant [in both Cr. B.A]	:	Muhammad Talha@ Noor Hira son of Muhammad Amin Through Ms. Farah Khan, advocate
The State	:	Through Ms. Najma Latif Golo, Assistant Prosecution General, Sindh.
Date of hearing	:	18.09.2026.
Date of Order	:	18.09.2026.

ORDER

Jan Ali Junejo, J.- By this common order, I intend to decide the above captioned bail applications, as they arise out of same incident

2. Applicant Naveed ur Rehman son of Hani fur Rehman [**in Cr. B.A No.1578/2026**] seeks post arrest bail in FIR No.95/2026, registered at Police Station Iqbal Market, Karachi for the offences punishable under Sections 337-A(i)/365/377/34 PPC. The applicant has approached this Court being aggrieved by the order dated 11.05.2026 passed by the learned Additional Sessions Judge-X, Karachi West whereby his bail application was declined.

3. Applicants 1) Faheem Shahzad son of Muhammad Sadiq and 2) Nasru Khan @ Nasru Pathan son of Zirat Gul [**in Cr. B.A No.1331/2026**], seek pre-arrest bail in FIR No.95/2026, registered at Police Station

Iqbal Market, Karachi for the offences punishable under Sections 337-A(i)/365/377/34 PPC, calling in question the order dated 30.04.2026 passed by the learned Additional Sessions Judge-X, Karachi West, whereby their pre-arrest bail application was dismissed. The Applicant were granted ad-interim pre-arrest bail by this Court vide Order dated: 05.05.2026

4. The prosecution case as set out in FIR No.95 of 2026 is that the complainant verbally stated that she is residing at the above-mentioned address mentioned in Column No.2 of the FIR on rent. She further stated that she is a transgender person by birth and for the last two years has been participating in dance parties along with her companions and regularly attends such parties and similar functions. On 13.04.2026 the complainant alongwith Ulfat, Maria, Hina and Cashier Muhammad Hussain and helper Rupesh, went to Raees Amrohi Gali for the purpose of attend dance party. At about 1:00 a.m., the function commenced and continued for some time; however, upon the arrival of some Pashtoon boys, the party was stopped. Thereafter, the complainant and her companions proceed to their homes in a Hi-Roof vehicle. At about 4:15 a.m., four to five motorcycles and one Hi-Roof vehicle carrying about 10 to 15 persons intercepted their vehicle. The accused persons, namely (1) Atiqur Rehman @ Panda son of Fida Muhammad, (2) Akmal Shah @ Shah, (3) Faheem @ Fummi, (4) Nasru Pathan, (5) Usman, (6) Kareem Afghani, (7) Naveed, the Hi-Roof driver, and (8) Bahadur alongwith 6/7 unknown persons were armed with deadly weapons and started beating the complainant and her companions. As a result of the assault and maltreatment, the complainant sustained internal injuries to her body as well as injuries to her face. The accused persons while holding the complainant at gunpoint forcibly took her in their vehicle to an unknown place of Fareed Colony, described as a godown, where they tore her clothes and after beating her subjected her to sexual intercourse one after another against her will and by use of force. The complainant remained in severe pain as a result of the incident. Thereafter, accused Naveed dropped her at Saddar, Karachi. The complainant, being in severe pain, approached the police station and lodged the report against the above-named accused persons for allegedly committing the aforesaid acts upon her by use of force and weapons, hence this FIR.

5. Mr. Amer Manzoor advocate for the applicant in Cr. Bail Application No.1578 of 2026 submits that the applicant is innocent and has been falsely implicated due to mala fide intention and ulterior motives; that there is an unexplained delay of one day in lodging the FIR, which creates doubt in the prosecution case; that although the complainant referred to his companions in the FIR, none was associated or produced as an independent witness during investigation; that material contradictions exist between the complainant's statements recorded under Sections 154 and 164, Cr.P.C., particularly regarding the alleged abduction; that despite obtaining police remand of the applicant thrice, the Investigating Officer neither prepared the site inspection memo of the alleged place of occurrence nor effected recovery of any incriminating article; that the ingredients of Sections 365 and 377, PPC are not attracted, particularly when, according to the complainant himself, the applicant dropped him at his residence; that Section 337-A(i), PPC is bailable, while Section 365, PPC carries a maximum punishment of seven years and does not fall within the prohibitory clause of Section 497, Cr.P.C.; that the learned trial Court erred in treating the said offences as falling within the prohibitory clause; that no specific role has been assigned to the applicant in the FIR; that the mandatory requirement of Section 103, Cr.P.C. was not complied with as no private person from the locality was associated with the arrest or recovery; that any alleged confession before the police is inadmissible in view of Sections 38 and 39 of the Qanun-e-Shahadat Order, 1984, and no confessional statement of the applicant was recorded under Section 164, Cr.P.C.; that the gravity or heinousness of the alleged offence, by itself, cannot justify denial of bail where reasonable grounds connecting the accused with the offence are lacking; that the applicant has been implicated with a view to harass and blackmail him; and that the Investigating Officer has also failed to submit the final report within the prescribed period under Section 173, Cr.P.C. Learned counsel, therefore, submits that the case of the applicant calls for further inquiry and, particularly in view of the offences not falling within the prohibitory clause of Section 497, Cr.P.C., the applicant is entitled to the concession of bail.

6. Mr. Amir Shahzad advocate for the applicant in Cr. Bail Application No.1331 of 2026 submits that the applicants are innocent and have been falsely implicated in the present case with mala fide intention

and ulterior motives to harass, humiliate and damage their reputation; that the alleged occurrence took place on 13.04.2026, whereas the FIR was lodged on 14.04.2026 without any plausible explanation for the delay, rendering the prosecution story doubtful; that the medical report, which was conducted after an unexplained delay of three days, does not support the allegations leveled in the FIR and, in any event, is not conclusive and is yet to be proved at trial; that the applicants were granted interim pre-arrest bail by the learned Additional District & Sessions Judge, Karachi-X, during which they joined the investigation, fully cooperated with the Investigating Officer and also approached SSP (Investigation), West, seeking impartial investigation; that no further interrogation or custodial arrest of the applicants is required; that the persons allegedly accompanying the complainant at the time of occurrence have neither been produced nor cited as witnesses; that the allegations are exaggerated, improbable and require further inquiry within the meaning of Section 497(2), Cr.P.C.; that the learned trial Court, while dismissing the bail application, misread and failed to properly appreciate the material available on record and touched upon the merits of the case, whereas deeper appreciation of evidence is not permissible at the bail stage; that the applicants are respectable persons having permanent residences and deep roots in society, with no likelihood of their absconding or tampering with the prosecution evidence; that the applicants apprehend their arrest as police are continuously conducting raids at their houses, and their arrest in a false case would cause irreparable damage to their honour, dignity and reputation; that every reasonable doubt is to be resolved in favour of the accused even at the bail stage and the case squarely falls within the ambit of further inquiry under Section 497(2), Cr.P.C.; and that the applicants undertake to join and cooperate with the investigation and trial and to abide by any condition imposed by this Court. Learned counsel, therefore, submits that, in view of the mala fide implication, unexplained delay, non-supportive medical evidence, absence of independent witnesses, applicants' joining of investigation and the circumstances constituting further inquiry, the applicants are entitled to the extraordinary concession of pre-arrest bail.

7. Conversely, learned APG assisted by learned counsel for the complainant opposes these bail applications and submit that the applicants are directly nominated in the FIR with specific role; that the

allegation pertains to a grave offence; that the victim has supported the prosecution case and her statement has been recorded during investigation including under Section 164 Cr.P.C.; that absence of seminal material is not conclusive in view of explanation contained in the forensic report; that sufficient incriminating material is available on record connecting the applicant with the commission of alleged offence; and that the offence carries severe punishment and falls within the prohibitory clause, therefore, the applicants are not entitled for relief prayed for. In support of her contention learned counsel for the complainant relied upon the case law reported in 2025 YLR 505, 2024 YLR 1321, 2023 MLD 684, 2020 SCMR 1270, 2025 YLR 1341, 2019 SCMR 1129, 2012 SCMR 556, 2023 SCMR 975, 2004 SCMR 1170 and 2016 MLD 580,

8. I have heard the learned counsel for the applicants, learned counsel for the complainant and learned A. P. G. Sindh, and have gone through the available record with their assistance.

9. The prosecution case as reflected from the FIR and the material collected during investigation is that the applicants are specifically nominated therein and distinct roles have been attributed to them in the alleged occurrence. The complainant/victim, namely Muhammad Talha @ Hira is a transgender person and has directly nominated the accused persons for the alleged treatment meted out to her. She has categorically alleged that the accused persons, armed with weapons, intercepted the vehicle in which she was travelling with her companions, subjected them to assault and thereafter forcibly took her away to an unknown place where she was allegedly subjected to sexual assault by use of force. The allegation, therefore, concerns not merely an ordinary occurrence of assault or abduction but an alleged act of violence against a member of a vulnerable segment of society. The complainant has subsequently supported her version during investigation, including through her statement recorded under Section 164, Cr.P.C. The medical evidence available on record prima facie corroborates the allegation, as injuries were noted on the person of the victim consistent with the commission of unnatural offence. The argument regarding negative DNA report, at this stage, is not sufficient to discard the ocular account, particularly when supported by medical findings. At the stage of bail, such direct and specific accusation cannot be discarded merely on the basis of a plea of

false implication or mala fide, particularly when the prosecution has collected supporting material connecting the applicants with the alleged occurrence.

10. The plea of delay in registration of the FIR, delay in medical examination, absence of independent witnesses, non-recovery of incriminating articles, alleged non-preparation of the site inspection memo and other alleged defects in investigation have been considered. However, none of these circumstances, either individually or collectively, is sufficient at this stage to dislodge the specific accusation against the applicants. The effect of delay, the evidentiary value of medical and forensic material, the credibility of the complainant and the consequences of any investigative lapse are matters requiring appreciation of evidence at trial. This Court, at this stage, is required only to make a tentative assessment and not to conduct a mini-trial. Similarly, the contention that Sections 337-A(i) PPC is bailable and Section 365 PPC do not independently fall within the prohibitory clause of Section 497, Cr.P.C. does not advance the applicants' case, as the FIR also contains the allegation under Section 377, PPC. The accusation, therefore, has to be considered as a whole and not by selectively examining the punishment attached to individual provisions. The seriousness of the allegation under Section 377, PPC, coupled with the specific accusation and material collected during investigation, cannot be ignored while determining entitlement to bail.

11. The fact that the complainant is a transgender person and allegedly belongs to a vulnerable segment of society also calls for the allegations of violence against her to be examined with due regard to the circumstances disclosed in the record. However, this Court does not determine the ultimate truth of such allegations at the bail stage. Thus, no circumstance has been shown which would bring the applicants within the scope of further inquiry.

12. Consequently, the applicants have failed to demonstrate any ground warranting interference with the impugned orders. Applicant Naveed ur Rehman has failed to make out a case for grant of post-arrest bail, while applicants Faheem Shahzad and Nasru Khan @ Nasru Pathan have failed to establish the exceptional circumstances necessary for grant

of pre-arrest bail. The cases of the applicants do not fall within the ambit of further inquiry under Section 497(2), Cr.P.C., nor have the pre-arrest applicants established mala fide or ulterior motive on the part of the prosecution. Accordingly, Cr. Bail Application No.1578 of 2026 and Cr. Bail Application No.1331 of 2026 are dismissed. Consequently, the ad-interim pre-arrest bail granted to applicants Faheem Shahzad and Nasru Khan @ Nasru Pathan vide order dated 05.05.2026 is recalled.

The observations made herein are tentative in nature and shall not prejudice the learned trial Court in deciding the case strictly in accordance with law on the basis of evidence recorded before it.

JUDGE