

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2392 of 2026

Applicant : Muhammad Saad Mir son of Mir Ahmed through Mr. Shaukat Islam Kumbhar, Advocate

Complainant : Waris Sardar son of Sardar Masih through Mr. Fahad Hussain, Advocate

The State : Through Ms. Najma Latif Golo, Assistant Prosecutor General, Sindh

Date of hearing : 22.09.2026

Date of decision : 22.09.2026

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant-Muhammad Saad Mir son of Mir Ahmed seeks post-arrest bail in Crime No.210 of 2026, registered under Section 376, PPC, at Police Station Malir Cantonment, Karachi. The Applicant's earlier bail application was declined by the learned Additional Sessions Judge-V, Malir, *vide* Order dated 15.07.2026.

2. Briefly stated, the prosecution case, as reflected in the FIR, is that the Complainant resides at the address mentioned therein and is engaged in sanitation work. He has three children, namely, two daughters and one son. His elder daughter, namely Fairy, is deaf and dumb and is a student of Class-VIII at Government Special Education School, Gulistan-e-Johar. It is alleged that on 29.04.2026, the Complainant's daughter did not attend school and, at about 11:00 a.m., went out with her classmates for recreation. However, she did not return home until late. The Complainant searched for her, and on 30.04.2026, at about 2:30 p.m., she returned home. Through sign language, she allegedly conveyed to her parents that a boy namely Kashif had taken her to an unknown place where he forcibly subjected her to sexual intercourse and thereafter left her at home on a motorcycle. The Complainant immediately took his daughter to Civil Hospital for medical examination; whereupon she was medically examined *vide* MLC No.40-26. Hence, the present case was registered.

3. Learned Counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated in the present case due to ulterior motives and mala fide intentions on the part of the Complainant. It was argued that the Applicant was neither nominated nor assigned any role in the FIR and that his name subsequently surfaced in the statement of the alleged victim recorded under Section 164, Cr.P.C., which, according to learned Counsel, is an afterthought. It was further contended that there are material contradictions between the contents of the FIR and the statement recorded under Section 164, Cr.P.C., and that the latter version has been introduced with a view to falsely implicate the Applicant. Learned Counsel further submitted that the Applicant is a special person and that the alleged occurrence has its background in a previous relationship between the Applicant and the victim. According to the defence, the Applicant had refused to marry the victim, whereafter the present proceedings were initiated as an act of retaliation. It was also argued that the Applicant has not been specifically alleged to have committed zina-bil-jabr or zina with the victim and that there is no independent material demonstrating the use of force, violence or intimidation. On these grounds, learned Counsel prayed for grant of post-arrest bail.

4. Conversely, learned Counsel for the Complainant as well as the learned Assistant Prosecutor General, Sindh opposed the bail application. They submitted that mere non-mention of the Applicant's name in the FIR is not sufficient to discard the subsequent material collected during investigation. According to them, immediately after registration of the FIR and recovery of the victim, her statement was recorded under Section 164, Cr.P.C., wherein, she specifically nominated the present Applicant and assigned him a definite role in the commission of the alleged offence. They further contended that the version of the victim is corroborated by the medical evidence and, more importantly, by the positive DNA report connecting the Applicant with the alleged offence. They therefore prayed for dismissal of the bail application.

5. I have heard the learned Counsel for the Applicant, learned Counsel for the Complainant and the learned Assistant Prosecutor General, Sindh and have carefully examined the material available on record.

6. It is an admitted position that the Applicant was not nominated in the FIR. However, such omission, by itself, cannot be treated as conclusive in favour of the Applicant, particularly where the prosecution subsequently collected material during investigation which directly

attributes a specific role to him. In the present case, the statement of the victim was recorded under Section 164, Cr.P.C., before the learned Judicial Magistrate, wherein, she specifically identified and nominated the Applicant and attributed a clear and specific role to him in the alleged occurrence.

7. At the stage of bail, the Court is required to undertake a tentative assessment of the material available on record and is not expected to conduct a deeper appreciation of evidence or record findings which may prejudice either party at the trial. In the present circumstances, the statement of the victim recorded under Section 164, Cr.P.C., constitutes a material piece of evidence for the purpose of tentative assessment of the Applicant's involvement. The defence objections regarding the circumstances in which the Applicant was subsequently nominated, the alleged previous relationship, the alleged refusal to marry, and the purported contradictions between the FIR and the subsequent statement are matters which require proper appreciation of evidence and cannot, at this stage, displace the prima facie material available against the Applicant.

8. The prosecution case is further supported by the medical evidence. More significantly, the positive DNA report available on the record provides independent corroborative material connecting the applicant with the alleged occurrence. The evidentiary worth, admissibility and ultimate effect of such material, including the question whether it is sufficient to establish the charge beyond reasonable doubt, are matters to be determined by the learned trial Court after recording and evaluating the evidence in accordance with law. At the present stage, however, the Court is concerned only with determining whether the material available on record calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

9. It is also relevant that the alleged victim is a minor child who is deaf and dumb and, therefore, falls within an especially vulnerable category. The nature of the allegation, the age and condition of the victim, and the specific role attributed to the Applicant in the statement recorded under Section 164, Cr.P.C., cannot be ignored while undertaking the tentative assessment required at the bail stage.

10. The combined effect of the statement of the victim recorded under Section 164, Cr.P.C., the medical evidence and the positive DNA report provides prima facie material connecting the applicant with the alleged offence. The mere fact that the applicant was not named in the FIR does

not, in the circumstances of the present case, by itself bring the matter within the ambit of further inquiry. The defence pleas regarding alleged false implication, previous relationship, motive for nomination and contradictions are matters which require determination after evidence is recorded and cannot, at this stage, override the corroborative material presently available on the record.

11. Consequently, upon tentative assessment of the material available on record, I am of the considered view that no case for further inquiry within the meaning of Section 497(2), Cr.P.C., has been made out in favour of the Applicant. The prosecution material, at this stage, provides reasonable grounds for believing that the applicant is connected with the commission of the alleged offence. Accordingly, the instant post-arrest bail application is dismissed.

12. It is, however, clarified that the observations contained in this order are tentative in nature and shall not prejudice the merits of the case or influence the learned Trial Court in any manner while adjudicating the case after recording the evidence.

JUDGE

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