

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2324 of 2026

a/w

Criminal Bail Application No. 2054 of 2026

Applicant [in Cr. B.A No.2324/2026]	:	Muhammad Yousuf Son of Sameer Through Mr. Hussain Bux Baloch advocate
Applicants [in Cr. B.A No.2054/2026]	:	Abdul Hadi S/o. Jibran Through Mr. Abdul Malir Abro, advocate
Complainant [in both Cr. B.A]	:	Rizwan son of Ghulam Muhammad Through Ms. Farkhunda Jabeen, advocate
The State	:	Through Ms. Najma Latif Golo, Assistant Prosecution General, Sindh.
Date of hearing	:	30.09.2026.
Date of Order	:	30.09.2026.

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 Muhammad Yousuf son of Sameer [**in Cr. B.A No.2324/2026**] seeks post arrest bail in FIR No.65/2026, registered at Police Station Eidgah, Karachi for the offences punishable under Sections 377/377-B/34 PPC. The applicant has approached this Court being aggrieved by the order dated 15.07.2026 passed by the learned Additional Sessions Judge-III/Special Court (ARITA-2021), Karachi South whereby his bail applications was declined.

3. Applicant Abdul Hadi son of Jibran [**in Cr. B.A No.2054/2026**], seeks pre-arrest bail in FIR No.65/2026 registered at Police Station Eidgah, Karachi for the offences punishable under Sections 377/377-B/34 PPC, calling in question the order dated 21.05.2026 passed by the

learned Additional Sessions Judge-III/Special Court (ARITA-2021), Karachi South, whereby his pre-arrest bail application was dismissed. The Applicant were granted ad-interim pre-arrest bail by this Court vide Order dated: 08.07.2026.

4. The prosecution case as set out in FIR No.65 of 2026 is that as per Rafta Rapat/Roznamcha Entry No.34 ASI Shahzad Akbar returned from Civil Hospital Trauma Centre on 14.04.2026 at about 1920 hours, whereafter the complainant Rizwan son of Ghulam Muhammad resident of Sahib Khatoon Manzil, Ground Floor, 5/72 RC Gazdarabad, Karachi, recorded his statement under Section 154 Cr.P.C., stating that about ten days prior at approximately 2030 hours (Isha time) his son Muhammad Aaish, aged about 13/14 years, was taken away by his friends namely Yousuf son of Sameer and Hadi son of Jibran to Koth Wall Building, 1st Floor, Alladin Street, Marwari Line, Gazdarabad, Karachi, where the grandmother of Hadi resided and had gone to her relatives on 04.04.2026, leaving the house vacant. It was alleged that both accused took the minor to the said house and subjected him to an unnatural sexual act. The minor did not disclose the occurrence to his parents due to fear; however, on 14.04.2026, when he suddenly became unwell, he disclosed the occurrence to his father and mother, whereafter he was taken to Civil Hospital Trauma Centre for medical examination and treatment. The complainant accordingly sought legal action against accused Yousuf son of Sameer and Hadi son of Jibran for allegedly committing an unnatural sexual offence against his minor son, hence this FIR.

5. Mr. Hussain Bux Baloch advocate for the applicant in Cr. Bail Application No.2324 of 2026 submits that the applicant is a juvenile aged about 16 years and, therefore, is entitled to the protection and beneficial treatment available under the juvenile justice law, particularly as the applicant is a student of Matriculation and has already missed his SSC examinations due to incarceration, and his continued detention would adversely affect his education, future career, psychological well-being, reputation and social standing. He further contended that the alleged occurrence took place on 04.04.2026, whereas the FIR was lodged after an unexplained delay of about ten days on 14.04.2026, which creates a possibility of deliberation and false implication and renders the case one of further inquiry within the meaning of Section 497(2), Cr.P.C. Learned

counsel argued that the medico-legal examination does not corroborate the prosecution version, as the MLC records that separation of the buttocks was not painful, there was no anal tear, bruise or other mark of injury, and the perianal examination was normal. He further submitted that the Forensic DNA and Serology Report also does not support the prosecution case, as no seminal material was identified or detected on the anal swabs of Muhammad Aish, thereby creating serious doubt regarding the alleged occurrence. It was further argued that there are material contradictions between the complainant's statement under Section 154 Cr.P.C. and the statement recorded under Section 164 Cr.P.C., particularly regarding the dates of the alleged occurrences, as the latter refers to occurrences on 04.04.2026 and 08.04.2026, whereas the prosecution version suggests that the victim developed pain and disclosed the alleged incident only on 14.04.2026. Learned counsel also contended that the alleged place of occurrence is situated in a thickly populated area, yet no independent witness has been associated to corroborate the alleged last-seen circumstance or the presence of the applicant with the victim. He further argued that from the contents of the FIR, statement under Section 164 Cr.P.C. and medical evidence, there is no allegation or indication of use of physical violence or intimidation, which, according to learned counsel, is material for attracting the relevant penal provision. Lastly, he submitted that the investigation has been completed, the applicant is no longer required for further investigation, the maximum punishment attracted is seven years, and there is no likelihood of the applicant tampering with the prosecution evidence or absconding, particularly as he has no previous criminal record; hence, the applicant's case calls for further inquiry and he is entitled to the concession of bail.

6. Mr. Abdul Malik Abro advocate for the applicant in Cr. Bail Application No.2054 of 2026 submits that the applicant is innocent and has been falsely implicated in the present case, as he did not commit the alleged offence and, being a minor, could not have committed the alleged act in the manner attributed to him. He further questioned the prosecution story by submitting that, when the grandmother of the alleged victim's friend was admittedly not present in the house and had gone to her relatives, it was unexplained how the alleged victim entered the said house when it was stated to be locked. Learned counsel further argued that there is an unexplained delay of about ten days in lodging the FIR

despite the alleged place of occurrence being situated only about two kilometers from the police station, and that the complainant neither immediately reported the matter nor informed the victim's actual parents, thereby creating a possibility of deliberation and consultation before registration of the FIR. He submitted that no offence under Section 377 PPC is made out against the applicant and that, in the absence of any positive medical evidence, particularly after a delay of ten days, it cannot safely be concluded at this stage that the applicant or any other person committed the alleged act upon the victim. Learned counsel maintained that the prosecution material contains circumstances sufficient to create reasonable doubt and, therefore, the applicant's case squarely falls within the ambit of further inquiry under Section 497(2), Cr.P.C.; that the principle of benefit of doubt is a fundamental principle of criminal jurisprudence and even a single circumstance creating reasonable doubt is sufficient to extend its benefit to an accused as a matter of right and not as a concession; and that guilt can only be established on the basis of unimpeachable, trustworthy and reliable evidence. He further contended that the applicant's continued incarceration would amount to pre-trial punishment, whereas the question of bail is directly connected with the liberty guaranteed under Articles 4 and 9 of the Constitution, and that bail should not be withheld merely as a measure of punishment. Learned counsel argued that there are no reasonable grounds at this stage for believing that the applicant has committed a non-bailable offence, whereas sufficient grounds exist for further inquiry into his guilt; that the applicant is presumed innocent until proven guilty; and that the principles laid down by the Hon'ble Supreme Court in PLD 1995 SC 34 regarding circumstances relevant to refusal of bail, including likelihood of abscondence, tampering with prosecution evidence, repetition of offence and previous conviction, are not attracted to the present applicant. He lastly submitted that the police are continuously conducting raids at the applicant's house, creating a genuine apprehension of his arrest, humiliation and harassment, and that the applicant is a permanent resident of Karachi, has no intention to abscond, is willing to furnish solvent surety to the satisfaction of the Court, and therefore deserves the concession of 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 his statement has been recorded during investigation including under Section 164 Cr.P.C.; that sufficient incriminating material is available on record connecting the applicants 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..

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. At the outset, it may be observed that both applicants are specifically nominated in the FIR with distinct allegations that they took the minor victim to the stated premises and subjected him to an unnatural sexual act. The prosecution case is not based upon an unknown or unidentified offender, rather the applicants were named by the complainant on the basis of the disclosure allegedly made by the minor victim. The fact that the alleged occurrence was not reported immediately and that the FIR came to be lodged after about ten days, though relevant to the defence, cannot at this stage, by itself, be treated as sufficient to discard the prosecution case, particularly where the prosecution explains that the minor had not disclosed the occurrence earlier due to fear and subsequently narrated the incident to his parents when he became unwell. The effect of such delay, as well as the circumstances in which the disclosure was allegedly made, are matters requiring appreciation of evidence at trial and cannot be conclusively determined at the bail stage.

10. The principal contention of learned counsel is that the medical examination does not reveal any injury, tear or bruise and that the forensic report does not detect seminal material on the anal swabs. These circumstances have certainly been noticed; however, the absence of external marks of violence or recovery/detection of seminal material cannot, at this preliminary stage, be treated as conclusive proof that the alleged occurrence did not take place. The medical and forensic material has to be appreciated along with the other evidence collected during investigation, including the account of the minor and his statement recorded under Section 164 Cr.P.C. The evidentiary worth and ultimate

effect of such material are matters for determination after recording and testing the evidence in accordance with law. At the bail stage, the Court is not required to conduct a meticulous or deeper appreciation of evidence as would be undertaken at the time of trial.

11. The contention regarding alleged contradictions between the statement under Section 154 Cr.P.C. and the statement under Section 164 Cr.P.C., particularly concerning the dates of the alleged occurrence and the subsequent disclosure by the minor, also does not, at this stage, furnish sufficient ground for extending the concession of bail. Whether the alleged discrepancy amounts to a material contradiction affecting the core of the prosecution case or is merely a variation capable of explanation is a matter to be determined after the relevant witnesses are examined and confronted with their previous statements. Similarly, the contention that the alleged place of occurrence was situated in a populated locality and that no independent witness was associated with the investigation does not, by itself, demolish the prosecution case, particularly where the allegation relates to an occurrence allegedly committed inside a private premises.

12. The argument that the ingredients of the offences alleged are not attracted, or that the prosecution has failed to establish use of physical violence or intimidation, also cannot be accepted as a ground for bail at this stage. The Court, while considering bail, is required to examine the material available on record in its entirety and is not expected to finally determine the applicability of the penal provisions or record a conclusive finding regarding the guilt or innocence of the accused. Such questions, particularly where they involve appreciation of the statement of the minor, medical material and other evidence, are appropriately left for determination by the trial Court after the evidence is recorded.

13. The plea of the applicant Muhammad Yousuf that he is a juvenile and is a student, and that his continued incarceration may adversely affect his education and future prospects, has been considered. Likewise, the age and other personal circumstances pleaded on behalf of applicant Abdul Hadi have also been taken into consideration. However, the beneficial provisions governing juveniles do not dispense with the requirement of examining the nature of the accusation and the material available against

the juvenile accused. The question at hand is whether, on the material presently available, the applicants have made out a case for bail. Their personal circumstances, though relevant, cannot by themselves override the incriminating material requiring consideration at this stage.

14. The contention regarding benefit of doubt also requires no elaborate discussion. The principle that an accused is presumed innocent until proved guilty and that reasonable doubt at the stage of final adjudication must go to the accused is well settled. However, the scope of scrutiny at the bail stage is distinct from that applicable at the conclusion of trial. The Court is required to form a tentative assessment of the available material and determine whether the case falls within the ambit of further inquiry under Section 497(2), Cr.P.C. Mere possibility of an alternative interpretation of the prosecution evidence does not, by itself, bring the case within the ambit of further inquiry where the material, when tentatively assessed, provides reasonable grounds connecting the accused with the alleged offence.

15. It is also relevant that the prosecution case concerns an alleged sexual offence against a minor, and the applicants are specifically nominated with attributed roles. The minor is stated to have disclosed the occurrence to his parents and his statement under Section 164 Cr.P.C. has also been recorded. At this stage, there is no material before me of such a nature that would render the entire prosecution case inherently improbable or make the accusation so doubtful as to bring the case within the ambit of further inquiry. The defence pleas regarding delay, absence of injuries, non-detection of seminal material, alleged contradictions, absence of independent witnesses and the manner of entry into the premises are matters which may be urged before the trial Court and tested through evidence, but they do not, on tentative assessment, dislodge the prosecution case for purposes of bail.

16. For the foregoing reasons, I am of the tentative view that the material available on record provides reasonable grounds connecting both applicants with the alleged offence and their cases do not presently fall within the ambit of further inquiry under Section 497(2), Cr.P.C. The contentions advanced by learned counsel for the applicants may be relevant for the defence at trial, but at this stage they do not outweigh the

prosecution material. Consequently, Cr. Bail Application No.2324 of 2026 filed by applicant Muhammad Yousuf son of Sameer is dismissed, while Cr. Bail Application No.2054 of 2026 filed by applicant Abdul Hadi son of Jibran is also dismissed and the ad-interim pre-arrest bail granted vide order dated 08.07.2026 stands recalled.

17. It is, however, clarified that the observations made herein are tentative in nature, confined strictly to the adjudication of the present bail applications, and shall not prejudice the applicants or influence the learned Trial Court while deciding the case on its merits.

JUDGE