

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3190 of 2025

Applicant : Dr. Muhammad Rauf Shaikh,
Through: M/s. Munir Ahmed Malik,
Harchand Rai and Ghulam Murtaza,
Advocates

Complainant : Saiyon Son of Chhango, Through:
Mr. Alarf Hussain, Khoso, advocate

The State : The State: Through Ms. Seema Zaidi,
Additional Prosecutor General,
Sindh along with PI-Faraz Hussain of
Police Station Baghdadi Lyari,
Karachi

Date of hearing : 26.01.2026

Date of Order : 26.01.2026

ORDER

Jan Ali Junejo, J:- By this order, this Court proposes to dispose of the instant Bail After Arrest Application filed under Section 497, Code of Criminal Procedure, 1898, whereby the applicant seeks release on bail in FIR No.236 of 2025 registered at Police Station Baghdadi, Karachi South, for offences under Sections 324 and 376-B PPC (subsequently read with Sections 302, 201, 202, 420, PPC), challenging the legality and propriety of the Impugned Order dated 11.11.2025 passed by the learned Additional Sessions Judge-III / Special Court (ARITA-2021), Karachi South, whereby his bail application was dismissed.

2. Briefly stated, the prosecution case, as narrated in the FIR, is that the complainant alleged that his sister, Shanti, was subjected to brutal sexual violence by her husband Ashok soon after marriage,

resulting in grievous internal injuries. She was initially taken to a private hospital where the present applicant, a medical practitioner, conducted surgical intervention and she was later discharged. Subsequently, her condition deteriorated and she was shifted to Civil Hospital Karachi, where she remained in ICU and later succumbed to complications. Initially, the FIR was lodged against the husband of the deceased; however, during investigation, the present applicant was implicated on the allegation of failing to report a medico-legal case and allegedly facilitating concealment of the offence.

3. Learned counsel for the applicant contends that the applicant, a senior retired medical professional with an unblemished service record, has been falsely implicated on account of mala fide and ulterior motives. He argues that the applicant is neither named in the FIR nor alleged to have participated in the commission of the principal offence, and that the only allegation against him, even if taken at its highest, amounts to an omission to report the incident, which at best may attract Section 202, PPC, an offence that is bailable. He submits that no *mens rea* or active connivance is attributed to the applicant, who acted in good faith while performing emergency surgery solely to save the patient's life, and that the contemporaneous medical record fully supports his conduct. He further argues that the case squarely falls within the ambit of "further inquiry" under Section 497(2), Cr.P.C., in view of the delayed FIR, material contradictions in the prosecution case, and

absence of direct evidence. He accordingly prays that the impugned order be set aside and the applicant be admitted to bail.

4. Conversely, learned counsel for the complainant, vehemently opposes the application. He contends that the applicant, being a qualified surgeon, was legally and ethically bound to declare the matter as medico-legal and inform the police, which he deliberately failed to do, thereby facilitating the screening of a heinous offence. He argues that the procurement of an undertaking/affidavit from the patient's attendants reflects active participation in the concealment of material facts. He stresses the gravity of the offence, the post-mortem findings, and the alleged causal link between the initial treatment and the subsequent death of the victim, and prays that the application for bail be dismissed.

5. Learned Additional Prosecutor General for the State also opposes the grant of bail. She contends that the applicant's conduct demonstrates clear negligence of statutory duty and supports the prosecution's theory of deliberate concealment. She argues that the surrounding circumstances, including the nature of injuries, medical omissions, and the sequence of events, require deeper appreciation at trial rather than at the bail stage. She further submits that the allegations raise serious questions of fact and law, disentitling the applicant to the concession of bail at this stage.

6. I have heard learned counsel for the parties at length and perused the record with their able assistance. It is well-settled that at the bail stage, this Court is not required to conduct a mini-trial or

record a definitive finding on guilt or innocence, but only to ascertain whether reasonable grounds exist to believe that the accused has committed the offence, or whether the case calls for further inquiry. Admittedly, the applicant is not named in the FIR, which was lodged primarily against the husband of the deceased. The implication of the applicant has emerged subsequently during investigation, mainly on the allegation of non-reporting of a medico-legal case and alleged facilitation of concealment. The prosecution material, at this stage, does not prima facie establish that the applicant shared common intention with the principal accused or that he had prior knowledge of the commission of the alleged sexual offence so as to attract the stringent provisions invoked in the challan. The medical documents placed on record indicate that the applicant was called upon to perform surgery in an emergency situation and that the patient was discharged by the hospital administration. Whether such discharge was justified, whether the applicant acted negligently or in violation of statutory duties, and whether such conduct amounts to criminal liability are matters requiring deeper appreciation of evidence, expert opinion and cross-examination, which can only be undertaken during trial. Furthermore, the alleged offences attributed to the applicant are not punishable with death or imprisonment for life per se, and the prosecution case against him rests upon inference rather than direct evidence. The challan has been submitted and further detention of the Applicant would not serve any useful purpose. The settled

principle that bail is not to be withheld as a measure of punishment also weighs in favour of the applicant.

7. In view of the foregoing, and without entering into a deeper examination of the prosecution's evidence, this Court is of the considered view that, applying the rule of further inquiry as contemplated under Section 497(2), Cr.P.C., the applicant has succeeded in making out a case for grant of bail.

8. For the foregoing reasons, this Criminal Bail Application filed on behalf of the Applicant is allowed. Consequently, the Applicant Dr. Muhammad Rauf Shaikh son of Basheer Ahmed is hereby admitted to bail, subject to his furnishing a solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand Only) and P.R. bond in the like amount to the satisfaction of the learned trial Court, in case based on FIR No.236 of 2025, under Section 376-B, 324 read with section 302, 201, 202, 420, 512 PPC, registered at Police Station Baghdadi, Karachi South. Needless to observe that the observations made herein are tentative in nature and shall not prejudice the case of either party during trial. These are the detailed reasons of the Short Order dated: 26-01-2026.

JUDGE