

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Application No.3612 of 2025.

Applicant : Alim Ali through Mr. Muhammad Daud Narejo, Advocate.
Complainant : Mst. Shah Bano through M/s Muhammad Jibrán Nasir and Daniyal Muhammad Hussain, Advocates.
Respondent : The State through Mr. Muhammad Noonari, D.P.G. Sindh
Date of hearing : 23.02.2026.
Date of order : 23.02.2026.

ORDER.

TASNEEM SULTANA-J.:- Through this Criminal Bail Application, applicant Alim Ali seeks post-arrest bail arising out of Crime No.600/2024 registered at P.S. Darakhshan, Karachi South, for the offence punishable under Section 377-B PPC. Having been rejected his earlier Cr. Bail Application No.56 of 2025 passed by learned Additional Sessions Judge-III/Special Court (ARITA-2021), Karachi South vide order dated 22.12.2025, hence this application for the same concession.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the present case with mala fide intention and ulterior motives; that after recording of the testimony of the victim during trial, material contradictions have surfaced between her deposition and her earlier statements recorded under Sections 161 and 164 Cr.P.C., which, according to him, create doubt in the prosecution case; that the matter thus falls within the ambit of further inquiry as envisaged under Section 497(2) Cr.P.C.; that there is delay in lodging the FIR which has not been satisfactorily explained and indicates that the matter was deliberated upon before approaching the police; that the FIR has been lodged after consultation on account of a dispute regarding salary between the applicant and the complainant's family, therefore, false implication cannot be ruled out; Learned counsel for the applicant further contended that absence of medical evidence and lack of any injury on the person of the victim weaken the prosecution version; that the parties were admittedly known to each other and had prior cordial relations, as the applicant was working as a

servant in the house of the complainant and there were financial dealings between them; therefore, the matter falls within the ambit of further inquiry and the applicant is entitled to the concession of bail.

4. Conversely, learned Deputy Prosecutor General, assisted through learned counsel for the complainant, opposed the bail application and submitted that earlier two bail applications of the applicant have already been dismissed on merits and no fresh ground or change in circumstances has been brought on record to justify reconsideration; that the complainant has consistently supported the allegations of sexual abuse at every stage of the proceedings, including in the FIR, her statements recorded under Sections 161 and 164 Cr.P.C., and during her examination before the learned trial Court; that the complainant is a minor girl aged about 17 years and the allegation pertains to sexual abuse; that the offence alleged, involving abuse of a minor, is grave in nature and warrants a cautious approach at the stage of bail; that in such cases, particularly involving non-penetrative acts, absence of medical evidence or visible injury does not detract from the prosecution version; that the discrepancies pointed out by the defence are not of such significance as to affect the substance of the accusation; that delay in reporting such incidents, particularly where a minor is involved, is not uncommon as families often hesitate due to social considerations; that the version of the complainant, if found consistent and credible, is sufficient to connect the accused with the occurrence; therefore, the case does not fall within the ambit of further inquiry and the applicant is not entitled to the concession of bail.

5. Heard. Record perused.

6. It appears from the record that the allegation against the present applicant is that he entered the bedroom of the complainant without permission and pressed himself against her, grabbed her breast and further touched her private parts against her will.

7. It is an admitted position that this is the third post-arrest bail application of the applicant and earlier two bail applications have already been dismissed on merits. The present application has primarily been moved on the ground that certain contradictions have emerged in the testimony of the victim recorded during trial.

8. It appears from the record that the complainant/victim has consistently attributed a specific role to the applicant/accused in the

commission of the alleged offence in the FIR, her statements recorded under Sections 161 and 164 Cr.P.C., and her deposition before the learned trial Court. A tentative assessment of these statements reflects that the allegation of sexual abuse has been maintained with consistency. The discrepancies pointed out by the learned defence counsel regarding time, wording or surrounding circumstances appear to be minor in nature and do not, at this stage, affect the substratum of the prosecution case so as to bring the matter within the ambit of further inquiry. It is settled law that deeper appreciation of such aspects is not permissible at the bail stage.

9. The victim is admittedly a minor aged about 17 years. The allegation, as set out in the FIR and the statements recorded under Sections 161 and 164 Cr.P.C., when tentatively assessed, appears to constitute sexual abuse falling within the meaning of Section 377-A PPC, punishable under Section 377-B PPC, which attracts the prohibitory clause of Section 497(1) Cr.P.C. The scope of the said provision is not confined to consummated acts but also extends to non-penetrative sexual conduct, including touching, fondling or any obscene or sexually explicit act involving a minor below the age of eighteen years. The legislative intent, is to afford protection to minors as a vulnerable class of society; therefore, even such acts which do not result in physical injury or leave visible marks fall within its ambit.

10. In this regard, reliance is placed upon the case of *Mubeen Ahmed v. The State* (PLD 2021 Islamabad 431), wherein it was held that:

“Section 377-A does not require the consummation of sexual intercourse of any sort. Mere persuasion, inducement or enticement to engage a minor less than eighteen years of age in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or stimulation of such conduct constitutes an offence of sexual abuse. Thus, merely fondling a child, which would not inflict marks of violence or hurt on the body of such child, would constitute sexual abuse. The manner in which ingredients of the offence have been defined in Section 377-A and the punishment prescribed in Section 377-B, as amended and enhanced in 2018, makes the legislative intent unequivocal.”

11. Further reliance may also be placed upon *Nauman Hussain v. The State & another (2022 MLD 958)*, wherein it was observed that for constituting an offence under Section 377-A PPC, actual penetration is not required and even acts such as stroking, caressing or exhibitionism are sufficient to attract penal consequences under Section 377-B PPC.

12. So far as the contention of the learned counsel for the applicant that the applicant has been falsely implicated on account of a dispute regarding salary between the parties and that the FIR has been lodged after delay and consultation is concerned, no material has been brought on record to prima facie substantiate such allegation. The said contention appears to be a defence plea requiring deeper appreciation of evidence and cannot be given weight at this stage. Moreover, as regards delay in lodging the FIR, it has been consistently held that in cases of sexual offences, particularly involving minor victims, such delay is not of much significance, as victims or their families are often reluctant to approach the authorities promptly due to trauma and social stigma. Therefore, delay in reporting such occurrence, by itself, does not adversely affect the prosecution case nor does it bring the matter within the ambit of further inquiry.

13. Likewise, the contention regarding absence of medical evidence does not, at this stage, appear to be of any assistance to the applicant, particularly in view of the nature of the allegation, which relates to non-penetrative sexual abuse, where absence of visible injury is not uncommon. In this respect, reliance is placed upon the judgment of the Honourable Supreme Court in ***AmanUllah v. The State (PLD 2009 Supreme Court 542)***, wherein it was observed that medical or scientific evidence is merely corroborative in nature and is required only where the ocular account is doubtful.

14. The reliance placed by the learned counsel for the applicant on text message conversations and prior financial dealings between the applicant and the complainant's family has also been considered. A tentative assessment of such material reflects prior acquaintance and interaction between the parties; however, it is settled law that offences of this nature are often alleged against persons known to the victim; therefore, such relationship, by itself, does not appear sufficient to displace the prosecution case at this stage. Rather, the material prima facie indicates that the applicant had access to the household, particularly in view of the fact that he had previously worked at the house of the complainant and was re-engaged thereafter, thereby reflecting familiarity with the premises. Any deeper evaluation of such electronic material requires formal proof and is a matter for trial.

15. It is well settled that at the bail stage the Court is required to make only a tentative assessment of the available material. The concept of further inquiry under Section 497(2) Cr.P.C. cannot be invoked merely on the basis

of minor discrepancies or defence pleas requiring deeper appreciation of evidence. The offence alleged falls within the prohibitory clause of Section 497 Cr.P.C. and carries severe punishment. The material available on record, when assessed tentatively, prima facie connects the applicant with the commission of the alleged offence.

16. It is also a settled principle of law that successive bail applications can only be entertained where there is a material change in circumstances. In the present case, no such substantial change has been pointed out by the applicant; rather, the grounds urged have already been considered and dilated upon in the earlier orders.

17. It is further settled that where the trial is in progress, the proper course is to direct expeditious conclusion of the trial rather than to grant bail on grounds requiring deeper appreciation of evidence. In this regard, reliance is placed upon ***Rehmatullah v. The State (2011 SCMR 1332)***.

18. In view of the above, no case for further inquiry within the meaning of Section 497(2) Cr.P.C. is made out. Resultantly, the bail application is dismissed. These are the reasons of my short order dated 23.02.2026.

19. Needless to mention that the observations made herein are tentative in nature and shall not influence the merits of the case at trial.

JUDGE