

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2637 of 2025

Applicant : Abdul Waqar, Through: Mr. Pervaiz-ul-Qadir Memon, Advocate.

Complainant : Mst. Bushra, Through: Syed Sabit Ali Shah, advocate.

The State : The State: Through: Mr. Sharaf-u-Din Kanhar, Assistant Prosecutor General, Sindh along with Investigating Officer - Hajerah Usman of Police Station Defence South Karachi

Date of hearing : 07.04.2026

Date of Order : 07.04.2026

ORDER

Jan Ali Junejo, J:- Through this application under Section 498, Cr.P.C., the applicant/accused Abdul Waqar seeks pre-arrest bail in connection with FIR No.713/2025, registered under Section 376, P.P.C. at Police Station Defence, Karachi South. The applicant was earlier granted ad-interim pre-arrest bail by this Court vide order dated 02.10.2025, which now calls for confirmation or otherwise.

2. Briefly, as per contents of the FIR, the complainant, namely Mst. Bushra, alleged that on 29.08.2025, while she was on her way to NADRA office, the applicant/accused, who is her cousin, intercepted her on a motorcycle and, on the pretext of giving her a ride, forcibly took her to an unknown bungalow near Qayyumabad, where he allegedly committed rape upon her. It is further alleged that after the incident, the applicant shifted her to Jinnah Hospital and fled from there. Subsequently, after regaining consciousness

and medical treatment, the complainant lodged the FIR against the applicant.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to mala fide intentions and personal grudge of the complainant. He argued that there is an unexplained delay of about three days in lodging the FIR, which creates serious doubt about the prosecution story. He further submitted that the complainant, being a divorcee, had been pressurizing the applicant for marriage and upon his refusal, she falsely implicated him in the present case. It was further argued that there is no independent witness to the alleged occurrence and the medical evidence does not conclusively establish commission of rape. Learned counsel also pointed out alleged contradictions in the statements of the complainant recorded under Sections 154, 161, and 164 Cr.P.C. He maintained that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C., and prayed for confirmation of pre-arrest bail.

4. On the other hand, learned counsel for the complainant vehemently opposed the grant of bail and submitted that the applicant is specifically nominated in the FIR with a direct and active role of committing rape. He argued that the complainant has consistently supported her version in her statements recorded under Sections 161 and 164 Cr.P.C., which are in line with the contents of the FIR. He further contended that the delay in lodging the FIR has been sufficiently explained, as the complainant remained under medical treatment and reported the matter immediately upon

regaining her health. He submitted that the offence alleged is of heinous nature and falls within the prohibitory clause, therefore, the applicant is not entitled to the extraordinary relief of pre-arrest bail. He prayed for dismissal of the application.

5. Learned Assistant Prosecutor General, Sindh, while adopting the arguments of learned counsel for the complainant, submitted that sufficient incriminating material is available on record connecting the applicant with the commission of the alleged offence. He argued that the medical evidence corroborates the version of the complainant and the applicant has failed to demonstrate any mala fide on the part of the complainant or the police. He further submitted that pre-arrest bail is an extraordinary relief and cannot be granted in routine, particularly in cases involving serious allegations like rape. He, therefore, prayed for dismissal of the bail application.

6. I have heard learned counsel for the parties at length and perused the available record with their able assistance. The record reveals that the complainant has maintained a consistent and unwavering stance from the very inception of the case. In the FIR as well as in her statements recorded under Sections 161 and 164, Cr.P.C., she has categorically alleged that the applicant/accused forcibly took her on his motorcycle to a bungalow, committed rape, and subsequently shifted her to Jinnah Hospital, from where he escaped. The applicant/accused has been specifically nominated in the FIR, and a definite role has been attributed to him. Such consistency at this stage furnishes prima facie credibility to the

prosecution's case and is sufficient to connect the applicant/accused with the alleged offence.

7. The objection regarding a delay of three days in lodging the FIR has been duly considered but found to be devoid of substance. The complainant has plausibly explained that she remained hospitalized and was able to report the matter only after regaining her health. This explanation appears natural and in line with human conduct, particularly in cases involving sexual violence. It is a settled principle of law that delay in lodging the FIR, when satisfactorily explained, does not adversely affect the prosecution case, especially in offences of such a sensitive nature.

8. The defence pleas advanced by the applicant/accused, including allegations of false implication, refusal to marry, and purported contradictions in the complainant's statements under Sections 154, 161, and 164, Cr.P.C., do not merit consideration at this stage. These contentions essentially pertain to disputed questions of fact, which require thorough evaluation after recording of evidence. At the bail stage, a deeper appreciation of such aspects is neither warranted nor permissible. Any minor discrepancies, if present, are to be assessed by the trial Court in due course and do not, at this juncture, diminish the probative value of the complainant's consistent account.

9. Furthermore, the medical evidence produced by the prosecution lends prima facie corroboration to the complainant's allegations. Although it may not conclusively establish the

commission of rape, the medico-legal findings, when read in conjunction with the consistent ocular account, provide sufficient grounds to connect the applicant/accused with the alleged offence. The offences fall within the prohibitory clause of Section 497, Cr.P.C., carrying severe punishment, and the relief of pre-arrest bail, being extraordinary in nature, is not to be extended in the absence of mala fide or ulterior motive, which is not evident in the present case. Consequently, the applicant/accused has failed to make out a case for confirmation of pre-arrest bail,

10. For the foregoing reasons, the instant Criminal Pre-Arrest Bail Application is dismissed. Consequently, the ad-interim pre-arrest bail granted to the applicant vide order dated 02.10.2025 is hereby recalled. The applicant, present in Court, was taken into custody vide Short Order dated: 07-04-2026. It is, however, clarified that all observations hereinabove are purely tentative and confined to the adjudication of the present bail application. Nothing stated in this Order shall be construed as an opinion on the merits of the case, and the trial Court shall proceed independently, uninfluenced by any observations contained herein. These are the detailed reasons for the short order dated 07.04.2026.

JUDGE