

Crl. Bail. Application No. 684 of 2025

For hearing of bail application.

Mr. Zainul Abidin advocate for applicant.
Mr. Neel Parkash, DPG.

2. Relevant facts of the case are that on 19/01/2025 between 02:00 pm and 06:00 pm the complainant went to the market with his wife, Sobia. His daughter, Iqra, aged about 8/9 years, was present near the house, and at about 06:00 o'clock, returned back. At about 08/09 o'clock, his daughter told her mother that she was getting pain while urinating. On inquiry, she disclosed that at about 03:00pm to 05:00pm, a person who gave her some money sat her on his lap and engaged in inappropriate activities by putting his hand inside her shalwar and touching her private parts, due to which she was feeling pain. They enquired in Muhalla, and a person was apprehended on 21-01-2025 at about 12:20 with the help of neighbours, he disclosed his identity as Abdul Qadir, son of Allah Dino, and took him to the police station with the help of Muhammad Javed, Muhammad Fahem and) Nauman. Consequent upon; case was registered inter-alia on above facts.

3. At the very outset, learned counsel for the applicant contends that initially the case was registered for the offence under Section 376 PPC; however, after completing investigation, the police downgraded the offence under section 376-B PPC indicating that no evidence of rape was found; this corroboration weakened the prosecution case as serious doubt about the allegation set forth in the FIR. He added that no medical evidence was available on record to

corroborate the allegation leveled in the FIR, besides, there was significant delay in lodging of FIR without plausible explanation. Learned counsel for the applicant also placed on record affidavit of complainant, exonerating the applicant from the commission of alleged offence.

4. Learned Deputy Prosecutor General, Sindh concedes that no marks of violence or forensic evidence has been found and recorded his no objection in view of affidavit filed by the complainant.

5. The medical evidence shows no mark of violence found on the person of alleged victim. Absence of such medical evidence raises serious doubt about the credibility of the case, there is no direct evidence against the applicant, establishing his involvement with the commission of the alleged offence. There is inordinate delay of two days in lodging of FIR, which is fatal for the prosecution. The complainant has sworn affidavit, exonerating the applicant from the commission of alleged offence. He is also present in person, on inquiry, he supports the averments of the affidavit. Such alone fact has made the case of the applicant one of the further inquiry, as envisaged under section 497(ii) Cr.PC. Accordingly, applicant is admitted to post arrest bail, subject to furnishing solvent surety in the sum of Rs.50,000/- [Rupees Fifty Thousand Only] and PR bond in the like amount to the satisfaction of the learned trial court.

J U D G E

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