

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Crl. Bail Application No.S-25 of 2025

Applicants: 1. Allah Warayo S/o Mubeen Khan,
2. Lutufullah S/o Muhammad Arif,
3. Yar Muhammad @ Yaroo S/o Munwar Ali,
4. Hidayatullah S/o Munwar Ali.
Through Mr. Prem Chand, Advocate.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, Deputy P.G.

Complainant: Khamiso S/o Muhammad Uris,
Through Mr. Muhammad Azhar Arain, Advocate.

Date of hearing: 19.08.2025

Date of order: 19.08.2025

O R D E R

Amjad Ali Sahito, J: Through this Bail Application, the applicants/accused seek pre-arrest bail in Crime No.111/2024 for offence under sections 377, 364-A, 506(ii) and 34 P.P.C registered at PS Samaro, after their bail plea has been declined by the learned Additional Sessions Judge-I, Umerkot vide order dated 17.01.2025.

2. The details and particulars of the F.I.R are already available in bail application and the F.I.R, as such, need not to reproduce the same hereunder.

3. Per learned counsel, the applicants/accused are innocent and have been falsely implicated in this case by the complainant due to political enmity. The DNA report is not supported with the version of the complainant. He further submits that all witnesses shown in the FIR are interested and related with complainant party and no single eye witness is associated. He has also filed statement alongwith certain documents which are taken on record. Lastly, he prayed for confirmation of bail. In support of his contentions, he relied upon the case laws viz: **2022 SCMR 1447 [Supreme Court of Pakistan] “Re-SOHAIL AKHTAR Versus The STATE through P.G. Punjab and another”**.

4. On the other hand, learned D.P.G and counsel for the complainant have vehemently opposed the grant of bail to the applicants/accused.

5. Heard and perused.

6. From perusal of record, it appears that the names of the applicants are appearing in the FIR with specific role that at the place of incident and at show of weapons, they kidnapped the nephew of the complainant namely Saddam Hussain who was studying in Madarsa. After kidnapping, all accused persons committed sodomy and thereafter released him. After that victim Saddam Hussain approached the house and informed about the unnatural offence committed by the accused persons with the nephew of the complainant. After registration of the FIR, statements of prosecution witnesses were recorded and so also statement of victim Saddam Hussain and subsequently he was produced before the Magistrate for recording his statement under Section 164 Cr.P.C. wherein he fully supported the version of the complainant. Furthermore, the I.O of the case submitted final challan and disposed of the case in 'A' class but learned Additional Sessions Judge, Umerkot did not agree with the report filed by the I.O and took cognizance under Sections 364-A, 377, 506(ii), and 34 P.P.C against all the accused persons. Specific question was put to the learned counsel for the applicants as to whether there is political enmity with the complainant party, but he did not give detail.

7. At this bail stage, only a tentative assessment is to be made for the grant of bail. Sufficient material is available to connect the applicants/accused with the commission of offence and no mala fide or ill-will has been attributed to the complainant by the applicants. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan **[2019 SCMR 1129]** wherein the Hon'ble Supreme Court of Pakistan has held as under:

"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably

demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

8. Learned counsel for the applicants/accused has failed to make out the case for grant of bail. Accordingly, the bail application filed on behalf of the applicants/accused stands **dismissed**. The interim bail granted to the applicants/accused vide order dated **03.02.2025** is hereby **recalled**.

9. The observations made in this decision are of a tentative nature and will not influence the merits of the case.

JUDGE

Faisal