

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Cr. Bail Appln. No. S-04 of 2024

Applicants : 1) Pervez S/o Muhammad Mithal
2) Mithal @ Muhammad Mithal S/o
Muhammad Soomar by caste Mangla
Through Mr. Sheeraz Fazal, Advocate

Complainant : Mst. Roshan Khatoon,
Through Mr. Imitaz Hussain Solangi
Advocate

The State : Through Mr. Mansoor Ahmed Shaikh,
DPG

Date of hearing : 18.08.2025
Date of short order : 18.08.2025
Date of detailed order : 21.08.2025

ORDER

KHALID HUSSAIN SHAHANI J. Applicants Pervez and Mithal seek confirmation of interim pre-arrest bail granted vide order dated 01.01.2024 in a case bearing crime No.12/2023, offence under sections 365-B, 458, 376, 338-C, 344, 452, 337-H2, 148, 149 PPC of PS Agra. Their earlier bail plea was declined by the Court of learned Additional Sessions Judge-IV/GBV Court Khairpur vide order dated 15.12.2023.

2. Briefly stated, the prosecution case originates from an FIR lodged by the complainant, Mst. Roshan Khatoon, on 03.03.2023. She alleged that during the night in question, while she was present at her house along with her daughter, Sharifan @ Aneela, her son Abdul Razzaque, and other family members, a group of armed accused forcibly entered the premises at about 01:00 a.m. It is stated that the intruders, identified as Zaheer, Deedar, Saud, Khadim @ Abdullah, Ghulam Qadir, Zulfiqar, Pehalwan, Roshan and Mithal (present applicant), abducted her daughter Sharifan @ Aneela at gunpoint with the intention to compel her for illicit

intercourse or forced marriage. They are said to have taken her away in waiting vehicles while resorting to aerial firing.

3. It is significant, however, that the name of applicant Pervez did not find mention in the original FIR, nor in the statements of the complainant and other witnesses recorded under section 161 Cr.P.C. His name surfaced for the first time after an inordinate lapse of nearly four months, when the alleged abductee recorded her statement under section 164 Cr.P.C on 11.07.2023.

4. Learned counsel for the applicants argued that the prosecution case is riddled with contradictions and suffers from apparent mala fides. He emphasized that the belated and unexplained implication of applicant Pervez gravely reduces the probative value of the allegation against him, particularly when he remains closely related to the complainant family. Counsel further pointed out that neither the complainant nor the abductee identified the applicants during their testimony before the Court and even co-accused such as Zaheer and Zulfiqar, who were nominated from the inception of the FIR, could not be identified during trial proceedings. Moreover, the complainant herself filed an affidavit of no-objection for grant of bail to co-accused Zaheer and Zulfiqar before the trial court, pursuant to which they were released on bail. This, according to counsel, demonstrates inconsistency in the stance of the prosecution and indicates a mala fide design to implicate the present applicants selectively. He further submitted that the prosecution has failed to produce timely medical and DNA reports despite numerous opportunities, thereby raising doubts on its sincerity. It was also contended that the applicants, being elderly and family members of the complainant, never misused the concession of interim bail and have remained throughout at the disposal of the investigating agency, which

militates against any apprehension of absconding or tampering with prosecution evidence. Therefore, in view of the glaring weaknesses in the prosecution's version as well as the principle of consistency, it was urged that the applicants deserve confirmation of pre-arrest bail.

5. On the other hand, learned Deputy Prosecutor General for the State, assisted by counsel for the complainant, vehemently opposed the plea. It was argued that the allegations are of heinous nature, involving abduction and sexual violence, which fall within the prohibitory clause of section 497(1) Cr.P.C and thus disentitle the applicants from bail. It was submitted that the statement of the victim under section 164 Cr.P.C specifically names applicant Pervez, and in such circumstances, his custody is required for fair trial and effective prosecution of the crime.

6. Having considered the rival contentions and upon appraisal of the record, it is apparent that the prosecution's case against the applicants is not free from serious doubt at this stage. The delayed introduction of applicant Pervez's name, nearly four months after the alleged incident, renders the allegation suspicious, particularly in light of his close family ties to the complainant. The complainant as well as the alleged abductee have failed to identify not only the present applicant but also co-accused Zaheer and Zulfiqar, though their names appeared consistently in the FIR and earlier recorded statements. Both those co-accused have already been granted bail by the trial court on the complainant's specific no objection affidavit. This indicates multiple, conflicting versions by the prosecution with respect to the alleged occurrence, thereby shaking the credibility of its narrative.

7. Significantly, the applicants have remained on interim pre-arrest bail since January 2024 and have not been accused of misusing this concession in any manner. The Supreme Court has consistently held, in

precedents such as PLD 2009 SC 427, 2013 SCMR 51, and PLD 1997 SC 408, that where mala fides, ulterior motives, unexplained delays in implication, lack of identification, or inconsistent prosecution versions are apparent, the relief of pre-arrest bail is warranted to protect the liberty of an accused.

8. In view of the above circumstances, I am persuaded that the case of the applicants falls squarely within the ambit of further inquiry as envisaged by section 497(2) Cr.P.C. Consequently, the interim pre-arrest bail granted to applicants Pervez and Mithal is hereby confirmed on the same terms and conditions earlier imposed. The applicants are directed to attend all subsequent proceedings before the trial court, to cooperate with the prosecution, and to refrain from causing any harassment to the complainant or witnesses. It is clarified that all observations made herein are tentative in nature and shall not prejudice the merits of the case at trial. The bail application stands disposed of in these terms.

JUDGE