

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2227 of 2025

Muhammad Affan.....Applicant/Accused

Versus

The State.....Respondent

Date of Hearing : 15.10.2025

Date of Order : 15.10.2025

For the Applicant : Mr. Abdul Rauf Malik, Advocate.

For the Complainant : Mr. Abdul Razzaq Solangi, Advocate

For the State : Ms. Rahat Ahsan, Additional P.G.

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ORDER

TASNEEM SULTANA, J: Through this bail application the applicant Muhammad Affan son of Siraj Muhammad seeks post-arrest bail in Crime No.220 of 2025, registered at Police Station Malir City Karachi, under Section 376/342/34 r/w 375-A PPC. Earlier his bail plea was declined by the learned Vth Additional District & Sessions Judge, Malir Karachi vide order dated 23.08.2025; he has now approached this Court for post-arrest bail.

2. The facts of the prosecution case are that the complainant appeared at Police Station Malir City and reported that on 14.04.2025, his daughter Anaya, aged about 17/18 years, while going to her school in the morning, when reached near Liala Town main gate, Malir City, at about 7:00 a.m., was allegedly abducted at gunpoint by her school fellow Faizan along with his three unknown companions; thereafter took her to an unknown place and subjected her to gang rape. It is further stated that the victim returned home at about 2100 hours through a Yango car and narrated the incident to her father, whereupon he approached the police station and lodged FIR No. 220 of 2025 under Sections 376, 342 and 34 PPC at Police Station Malir City, Karachi.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that the applicant/accused has nothing to do with the alleged crime; that there is a

delay of about 34 hours in lodging the FIR; that the statement of the alleged victim under section 164 Cr.P.C was recorded after the delay of 15 days from the alleged incident; that there is no eye witness of the incident; that investigation has been completed and challan submitted; that no recovery remains pending and the applicant's custody is no longer required; that in view of the above, the matter requires further inquiry.

4. Conversely, learned Additional P.G assisted by the counsel for the complainant opposes the plea and submits that victim in her statement under Section 161/164 Cr,P,C has nominated the present applicant/accused; that a heinous crime of abduction and gang rape was committed by the applicant; that the bail application of the co-accused Faizan has been dismissed by this Court vide order dated 26.09.2025.

5. Heard. Record perused.

6. At bail stage, the Court is required to take only a bird's-eye view of the available record without entering into a detailed appraisal of the evidence and do not weigh the evidence as in a full-fledged trial but to examine, with judicial caution, whether reasonable grounds exist to believe that the accused is connected with the alleged offence. This limited yet careful scrutiny ensures that while the right to liberty is respected, the administration of justice and societal order are not undermined. Where such preliminary evaluation discloses consistent statements, corroborative circumstances, and sufficient material indicating the accused's involvement in a heinous offence, the concession of bail cannot be granted as a matter of routine.

7. From a Perusal of the FIR and the statement of the prosecutrix/ victim under section 161 Cr.P.C., reflects that the applicant/accused and his co-accused, alleged to have abducted and subjected a young girl to sexual assault ,an offence of extreme moral and legal gravity. The prosecutrix, in her statement recorded under Section 164 Cr.P.C., has categorically named the present applicant and narrated the incident in a clear and consistent manner. At this preliminary stage, such a statement carries significant evidentiary weight and establishes a prima facie connection between the accused and the commission of the alleged offence. The nature of the

accusation, supported by the investigative material, prima facie suggests that reasonable grounds for believing in the involvement of the accused. The offence, punishable with death or life imprisonment under Section 376, 342 and 354 read with 375-A PPC, thus squarely falls within the prohibitory clause of Section 497(1) Cr.P.C., restricting the grant of bail except in the rarest of the defence pleas regarding delay and false implication do not, at this stage, create any doubt in the prosecution case or constitute exceptional circumstances for the grant of bail. Reliance is placed on the case reported in 2007 SCMR 4730.

8. The Hon'ble Supreme Court of Pakistan in the case of *Shameel Ahmed vs. The State* (2009 SCMR 174) held that grant of bail non-bailable offence is not the right of an accused rather it is a concession. For ease of reference the relevant portion of the referred case law is reproduced herein below:

"4....Bail in a case not falling within the prohibitory clause of S. 497, Cr.P.C. --- Principles--Grant of bail in cases not falling within the domain of prohibition clause of proviso to S.497, Cr.P.C. is not a rule of universal application---Each case has to be seen through its own facts and circumstances---Grant of bail, no doubt, is a discretion granted to a Court, but its exercise cannot be arbitrary, fanciful or perverse."

9. Moreover, offence alleged gravely offends public morality and the dignity of a young girl, and no mala fide or ulterior motive is apparent on record. Accordingly, the accused has failed to make out a case for the concession of bail, which is hereby dismissed.

10. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul