

IN THE HIGH COURT OF SINDH, KARACHI.

Cr. Bail Appln. No.1983 of 2025

Applicant : Jawed Khan son of Sher Malik,
through Mr. Muhammad Adeel, advocate.

Respondent : The Complainant, through
Mr. Mansoor Ahmed, advocate.

The State
through Mr. Zahoor Ahmed,
Additional Prosecutor General, Sindh.

Date of hearing : 08.10.2025.

Date of Order : 20.10.2025.

O R D E R

MIRAN MUHAMMAD SHAH, J:- Through the instant Criminal Bail Application, the applicant above named seeks post-arrest bail in Crime No.178 of 2025, under sections 496-A, 371-A and B PPC read with section 3/4 TIP Act, registered at Police Station Docks, Karachi, after his bail plea was declined by the learned Xth Additional Sessions Judge, Karachi West, vide order dated 12.06.2025.

2. The brief facts of the prosecution case are that on 05.04.2025, the complainant Umer-ur-Rehman lodged a report at police station P.S Docks, producing an apprehend person, namely Jawed Khan son of Sher Maalik, along his friend Gul Noor Khan. The complainant stated that he is a driver by profession and resides with his two wives. His first wife's brother Jawed Khan used to frequently visit their home. On 26.03.2025, the complainant left for work at about 0830 hours leaving both wives at home. Upon returning at about 01:00 am, on 27.03.2025, he found his second wife, Mst. Gul Sana aged about 20/21 along with Rs.70,000/- cash and two tolas of gold jewelry from the Almirah. After making inquiries from relatives, he came to know that his second wife had been abducted by Jawed Khan, alleged with the help of accomplices, with the intent to commit Zina. Hence, the FIR was accordingly registered against the accused.

3. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated by the police with malafide intent and ulterior motives; that there is an unexplained delay of 10

days in lodging the FIR, and the alleged abductee has not yet been recovered; that the complainant is the applicant's brother-in-law, and due to matrimonial disputes, the applicant has been falsely involved in this case; that the applicant had already filed a complaint with the SHO, Police Station Shershah Colony, on 15.12.2024 regarding the complainant's illegal activities, but no action was taken, hence, the complainant falsely implicated the applicant out of retaliation, which reflects mala fide on his part; that the alleged incident is unseen, with no eyewitness or circumstantial evidence on record. Although the challan has been submitted, Sections 371-A and 371-B PPC were wrongly applied, as there is no evidence of the alleged abductee being sold or purchased for prostitution. Moreover, the challan was submitted by an IO authorized by the SIO, whereas cases under these sections fall under the jurisdiction of the Special Sexual Offences Investigation Unit (SSIOU), making the investigation defective; that Statements under Section 161 Cr.P.C. from four private witnesses do not implicate the applicant or place him with the alleged abductee; that no specific role has been assigned to the applicant and the case is one of further inquiry, and the benefit of doubt may be extended to the applicant even at the bail stage; that the applicant has been in custody since his arrest, the charge has not yet been framed, and the case is still pending before the learned Magistrate under Sections 87 and 88 Cr.P.C. against the absconding co-accused. He lastly prays for grant of bail to the applicant/accused.

4. On the other hand, the learned counsel for the complainant vehemently opposed the grant of bail on the ground that the applicant/accused has allegedly kidnapped the victim, who has not yet been recovered. He submits that the investigation of the case is still pending and due to the non-recovery of the alleged abductee, her statement under section 164 Cr.P.C has not been recorded, nor has the final challan been submitted. He further contended that the prosecution has sufficient material to connect the applicant/accused with the commission of the offence and he prayed for the dismissal of the applicant's bail application.

5. Conversely, the learned Additional Prosecutor General, Sindh also strongly opposed the grant of bail and adopted the arguments advanced by the learned counsel for the complainant. He also prayed for dismissal of the applicant's bail application.

6. I have heard learned counsel for the parties and have gone through the material available on the record. It transpires that the matter has been prematurely sent up for trial, despite the fact that the abductee in the present case has not yet been recovered. The present applicant/accused is behind the bar since his arrest, which is about five months back. The only allegations against the present applicant/accused is that he sold the abductee for the purpose of prostitution. However, no evidence with regard to selling and buying has been presented before the trial Court. Mere reliance on the basis of statement of the present applicant/accused recorded before the police, sections 371-A & 371-B Cr.P.C cannot be made applicable in this case until and unless the abductee is recovered. The present applicant/accused hence, cannot be dragged to face trial without the requisite material evidence being brought on record and the proceedings of the trial in such circumstances is unjustified and premature.

7. In such circumstances, I am inclined to grant bail to the applicant namely **Jawed Khan son of Sher Malik** is admitted to bail subject to furnishing a solvent surety in the **sum of Rs.100,000/- (Rupees One Lac Only)** and a P.R. bond in the like amount to the satisfaction of learned Trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

9. The instant Crl. Bail Application stands disposed in the above terms.

JUDGE

Whether bail which is a proper form of filing of second and third bail application in case of dismissal of the bail in non-prosecution on merely technicalities which should not be come in way in the liberty of the present applicant/accused special where the case is made out for grant of bail?

Whether the filing of a second or third bail application is not a proper course of action in cases where the earlier bail applications were dismissed for non-prosecution on mere technical grounds, which should not come in the way of the liberty of the applicant/accused, especially when a case for grant of bail is otherwise made out?