

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No. S-119 of 2026

Applicant : Muhammad Bachal s/o Muhammad Ibrahim
Respondents : D.I.G Sukkur & 18 others
Date of hearing : 16.02.2026
Date of order : 16.02.2026

ORDER

KHALID HUSSAIN SHAHANI, J.— The applicant, invoking the jurisdiction of this Court under Section 491 Cr.P.C, seeks issuance of directions for the recovery and production of Mst. Alishba Bibi, asserted to be his lawfully wedded spouse, from the alleged unlawful detention of private respondents, coupled with ancillary relief for her protection and initiation of criminal proceedings, if warranted.

2. The record manifests that prior to approaching this Court, the applicant had instituted Criminal Miscellaneous Application No.243 of 2026 before the learned Sessions Judge, Sukkur, invoking identical relief under the same provision of law. The learned Sessions Judge, upon due appraisal of the record including the purported *Nikahnama* and affidavit of free will and after affording audience to the parties, declined the prayer through a speaking order dated 09.02.2026, holding that no *prima facie* case for issuance of *rule nisi* or recovery of the alleged detainee had been made out.

3. The substratum of the dispute, as discernible from the material on record, emanates from the applicant's assertion of a subsisting marital bond with the alleged detainee, which proposition stands emphatically repudiated by the private respondents, who impute fabrication of documents and affirm that the lady resides with her parents of her own volition. The learned Sessions Court, upon careful consideration of the rival stances and documentary material, found the applicant's claim unsubstantiated and thus negated the plea for issuance of *rule nisi*.

4. Undeterred, the applicant has re-invoked the jurisdiction of this Court, again seeking identical relief without demonstrating any subsequent development, supervening circumstance, or jurisdictional infirmity in the earlier adjudication that could arguably justify a second-tier interference in parallel proceedings. The matters urged, touching upon the veracity of the alleged marriage, voluntariness of the alleged detinue, and her place of abode are manifestly disputed questions of fact, ill-suited for determination in summary proceedings under Section 491 Cr.P.C, particularly when the same controversy has already been judicially examined and declined on merits by a competent forum.

5. It is a settled exposition of law that the writ of habeas corpus under Section 491 Cr.P.C, is circumscribed to cases of manifestly unlawful detention or coercive custody and is not an appropriate vehicle for adjudicating contentious matrimonial claims necessitating recording of evidence or inquiry into voluntariness. The High Court, in exercise of such extraordinary jurisdiction, refrains from reappraising factual disputes already adjudicated unless shown patent illegality, perversity, or emergence of new and material circumstances warranting intervention.

6. In the present matter, the applicant has neither demonstrated any jurisdictional defect nor furnished material indicative of illegal confinement of the alleged detinue. The application, thus, represents a reiteration of a controversy conclusively determined by the learned Sessions Judge, and no justification is shown for reopening of the issue in collateral proceedings.

7. In consequence, this Court finds the application to be barren of merit and accordingly dismisses the same in *limine*. The applicant, if so advised, may seek appropriate relief before the Civil or Family Court competent in the matter, keeping in view the nature of the controversy involved.

J U D G E