

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Bail Appln. No. 3106 of 2025

Applicant : Bilal through Mr. Kashif Nazir Baloch,
Advocates.

Respondent : The State, through Mr. Sharafuddin
Kanhar, A.P.G.

Date of order : 13.01.2026.

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ORDER

TASNEEM SULTANA-J.:-Through this Criminal Bail Application, the applicant/accused Bilal son of Rahim Shah has sought post-arrest bail under section 497, Cr.P.C., in Crime No. 501/2025 registered at Police Station Mominabad, Karachi (West), for the offences under sections 365-B & 376(iii), P.P.C. read with sections 3/4 of the Sindh Child Marriage Restraint Act. Having been rejected his earlier post arrest bail application No.1669of 2025 by Additional Sessions Judge-X Karachi ,West (Trial Court) vide order dated 28-10-2025.Hence this bail application for same concession.

2. Brief facts of the prosecution case, as narrated in the FIR, are that the complainant Mst. Shagufta wife of Abdullah reported that her daughter Sonia, aged about 15/16 years, went missing on 01.08.2025. It was alleged that at about 04:00 p.m., Sonia left the house along with a boy namely Bilal on a rickshaw and thereafter she could not be traced, whereupon report was lodged. The complainant alleged that the applicant had enticed away her daughter with the intention to contract marriage or to commit zina and requested legal action.

3. Learned counsel for the applicant contended; that the applicant is innocent and has been falsely implicated; that there is an unexplained delay of about 20 days in lodging the FIR; that no eye-witness is cited; that the alleged abductee, in her statement recorded under section 164, Cr.P.C., categorically stated that she was not kidnapped and that she contracted marriage with the applicant out of her own free will; that therefore section 365-B, P.P.C. is not attracted; that the case calls for further inquiry; that the applicant is not likely to abscond or tamper with

prosecution evidence; and that as per medical/age examination, the age of the alleged abductee is assessed around 17 years.

4. Conversely, learned DPG/State counsel assisted by learned counsel for the complainant opposed the bail application and submitted that the alleged abductee is below 18 years; that the challan has been submitted for offences under sections 365-B & 376(iii), P.P.C. read with sections 3/4 of the Sindh Child Marriage Restraint Act; that even if the alleged abductee has stated about marriage, such version does not wash away the legal consequences where the alleged abductee is below 18 years; that the offence alleged is grave in nature and falls within the prohibitory clause of section 497, Cr.P.C.; and that the applicant is not entitled to the concession of bail.

5. Heard. Record perused.

6. At the bail stage, the Court is required to make a tentative assessment of the available material, without undertaking deeper appreciation of evidence. In the present matter, the prosecution case has culminated into submission of challan for offences under sections 365-B & 376(iii), P.P.C. read with sections 3/4 of the Sindh Child Marriage Restraint Act. The record reflects that the alleged abductee, in her statement recorded under section 164, Cr.P.C., stated that no one kidnapped her and that she contracted marriage with the applicant out of her own free will, and that the marriage was solemnized at Khyber Pakhtunkhwa (KPK). However, even if such statement is taken at face value for the purposes of bail, the material placed on record, including the investigation report and the medical/age examination record, prima facie reflects that the age of the alleged abductee is around 17 years, meaning thereby she is below 18 years, and the case thus attracts the provisions of the Sindh Child Marriage Restraint Act.

7. Section 376, P.P.C. is the penal provision for the offence of rape. It carries a punishment extending to ten years to twenty-five years, or imprisonment for the remainder period of natural life, therefore bringing the matter within the prohibitory clause of section 497, Cr.P.C. "Rape" has been defined in section 375, P.P.C. as a situation where a man has sexual intercourse with a woman under circumstances falling within any of the descriptions provided therein, including where the act is committed with or without her consent when she is under sixteen years of age. It is also pertinent to note that the definition and scope of the offence has been strengthened through the Criminal Laws (Amendment) Act, 2021, whereby the offence is no longer to be examined in azyman and conventional terms

and the statutory framework has been broadened to afford enhanced protection.

8. I was inclined to give some benefit to the applicant had the controversy before the Court been confined solely to an alleged breach of the Sindh Child Marriage Restraint Act; however, the matter does not remain so confined once the case is examined in the context of the allegations attracting kidnapping and rape laws, which carry severe punishments and entail serious consequences. The Court cannot lose sight of the fact that in such matters the defence ordinarily relies upon a free-will statement and production of a marriage document to contend that no offence has been committed; yet, where the prosecutrix is stated to be below 18 years, the alleged solemnization of marriage, by itself, does not automatically take the matter out of the penal consequences at this stage, and the allegation under section 376(iii), P.P.C. remains to be adjudicated strictly in accordance with law.

9. It may also be observed that cases of this nature have surfaced with a recurring pattern, where a girl is shown to have left home and thereafter a plea of marriage and free will is projected as a complete answer to the prosecution case. While every matter has to be decided on its own facts, such pattern requires cautious scrutiny, particularly where the female is of a vulnerable age, as the possibility of exploitation or coercion cannot be completely ruled out at the initial stage merely on the basis of a statement claiming free will. In the circumstances, the case does not, at this stage, fall within the ambit of further inquiry.

10. Insofar as the contention regarding delay in lodging the FIR is concerned, the same, by itself, is not sufficient to extend bail where the accusation attracts severe punishment and the available material furnishes reasonable grounds to believe the involvement of the applicant.

11. It may further be observed that the alleged offences in the present case, particularly under sections 365-B & 376(iii), P.P.C., carry severe punishment, including imprisonment which may extend to life, and thus fall within the prohibitory clause of section 497, Cr.P.C.; therefore, unless the Court finds absence of reasonable grounds to believe the involvement of the applicant, the concession of bail cannot be extended as a matter of course.

12. In view of the above, I am of the tentative opinion that there exist reasonable grounds to believe that the applicant is connected with the commission of the alleged offences; therefore, the instant bail application

does not merit acceptance. Accordingly, this Criminal Bail Application is dismissed.

It is clarified that the above observations are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE

Shabir/PS