

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-1229 of 2025

Applicant : Azhar s/o Asghar Ali, Soomro  
Through Mr. Shabbir Ali Bozdar, Advocate

Complainant : Qadir Bux s/o Mubarak Deen, Soomro  
Through Syed Tanveer Abbas Shah, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 23.02.2026  
Date of Order : 05.03.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.**— The applicant seeks the concession of post-arrest bail in a case bearing Crime No.158 of 2025, for offence under Section 377 Pakistan Penal Code, registered at Police Station Daharki, District Ghotki. His earlier application having been declined by the learned Additional Sessions Judge, Ghotki, the present petition assails that order.

2. According to the prosecution narrative, the occurrence is alleged to have transpired on 25.08.2025, wherein the applicant/accused is said to have subjected a minor to an act of sodomy. The matter was formally reported on 28.08.2025, resulting in the lodgment of FIR. The investigating agency secured certain articles, including the clothing of the victim, and forwarded them for chemical and forensic examination.

3. Learned counsel for the applicant contended that the FIR was lodged after an unexplained delay of three days, a circumstance that casts a shadow of doubt upon the veracity of the prosecution version. It was argued that the complainant's account is, at the most, hearsay. Furthermore, the statement of the alleged victim under Section 164 Cr.P.C, was recorded belatedly on 26.11.2025, almost three months after the alleged incident, thus diminishing its contemporaneous value and

inviting circumspection at trial. Counsel further pointed to the absence of forensic corroboration: the chemical examiner reported non-detection of human spermatozoa, and the DNA/serology report was similarly negative for seminal material. Such findings, it was urged, bring the matter squarely within the ambit of further inquiry under Section 497(2) Cr.P.C. Reliance was placed upon the cases of *Kiramat Khan v. The State & another* (2024 YLR 1529), *Abdul Ghaffar v. The State & others* (2016 SCMR 1523), *Muhammad Nauman Hanif v. The State & another* (2016 SCMR 1399), *Muhammad Hussain v. The State* (2022 YLR Note 132), *Aqib Saleem v. The State & others* (2021 MLD 1332), *Naveed Sattar v. The State* (2024 SCMR 205) and *Abdul Qadir @ Ali & another v. The State* (2022 YLR Note 22) and the bail orders in Cr.B.A Nos.821/2025 and 750/2025. It was also submitted that proceedings under Sections 22-A and 22-B Cr.P.C, had preceded the FIR, culminating in the order dated 28.08.2025 on Cr.M.A. No.346/2025.

4. Conversely, learned counsel representing the complainant opposed the prayer for bail, asserting that the applicant is specifically named by the victim, whose statement under Section 164 Cr.P.C, is both explicit and confidence-inspiring. Reliance was placed on the cases of *Aftab Ahmed v. The State* (2019 YLR 39) and *Wajid v. The State* (2023 YLR Note 60), *Muhammad Waheed v. The State through A.G Khyber Pakhtunkhwa & another* (2020 SCMR 2066), *Farooq Ahmed v. The State* (PLD 2020 SC 313) and bail order Cr.B.A No.S-1139/2025.

5. Learned Deputy Prosecutor General supplemented the opposition, submitting that the medico-legal certificate dated 29.08.2025 supports the prosecution case and reveals findings consistent with the commission of the alleged act. He maintained that the cumulative material

does not warrant concession of bail at this juncture. Reliance was further placed on *Aftab Ahmed v. The State* (2019 YLR 39) and *Wajid v. The State* (2023 YLR Note 60).

6. Having heard learned counsel for the respective parties and perused the available record with their assistance. It is a settled principle that, at the bail stage, the Court undertakes only a tentative assessment of the material, refraining from a detailed evaluation that may prejudice the eventual trial. The question at this stage is whether sufficient grounds exist for believing that the accused is guilty of the alleged offence, or whether the case falls within the purview of further inquiry under Section 497(2) Cr.P.C.

Here, the FIR was registered after a lapse of three days. Although delay in sexual offence cases is not invariably fatal, such delay must nonetheless be examined in the context of each case to determine whether it suggests deliberation or embellishment. The defense's assertion that the complaint stems from hearsay further amplifies the need for cautious appraisal.

7. The victim's statement under Section 164 Cr.P.C was recorded after an inordinate passage of time, about three months following the alleged occurrence. While such delay does not per se render the statement inadmissible, it diminishes its spontaneity and necessitates judicial prudence at the trial stage.

8. As regards medical and forensic material, the record reveals that the chemical examiner detected no human spermatozoa, while the DNA/serology report confirmed absence of seminal traces, noting that such absence may be attributable to multiple factors. Conversely, the medico-legal certificate indicates findings supportive of penetration. The

apparent divergence between medical opinion and forensic indicators cannot be conclusively reconciled without full evidentiary scrutiny; hence, it becomes a domain better left to trial after examination and cross-examination of expert witnesses.

9. In the cumulative circumstances including, the delayed registration of FIR, the belated recording of the victim's statement, and the inconclusive forensic results juxtaposed against the medical opinion; this case, tentatively, appears to call for further inquiry within the contemplation of Section 497(2) Cr.P.C. To perpetuate the applicant's incarceration pending trial, when the evidentiary landscape is not free from doubt, would amount to pretrial punishment rather than a procedural safeguard.

10. For these reasons, the application is allowed. The applicant Azhar Soomro, is admitted to post-arrest bail upon furnishing solvent surety in the sum of Rs.300,000/- (Rupees Three Hundred Thousand only) and a personal recognizance bond in the like amount to the satisfaction of the learned trial Court.

11. The applicant shall regularly attend the proceedings, shall not in any manner influence or intimidate the complainant, the victim, or any prosecution witness, and shall not misuse the concession of bail. In the event of violation of any condition, the prosecution shall be at liberty to seek cancellation of bail in accordance with law.

Observations made herein are purely tentative and shall not prejudice the determination of the case on merits at trial.

**J U D G E**