

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERBABD

Criminal Bail Application No. S-1322 of 2025
[Ayaz & others v. The State]

Before:
JUSTICE RIAZAT ALI SAHAR

Applicants: Ayaz and others through M/s. Roshan Ali Bhatti and Mir Murtaza Abro, Advocates.

Respondent: The State through Mr. Irfan Ali Talpur, D.P.G along with victim Mir Muhammad Chandio.

Date of Hearing: 23.02.2026

Date of Order: 23.02.2026

ORDER

RIAZAT ALI SAHAR, J: - Through instant bail application applicants/accused namely, Ayaz son of Dhani Bux, Ghulam Hussain son of Gul Muhammad Saddam son of Bachayo and Shahbaz son of Ghulam Hussain have sought their release in Crime No.275/2024 registered at P.S. Hala New, District Matiari, under Sections 375-A, 377, 377-B, 506 and 34 PPC.

2. The prosecution case revolves around an incident reported by the complainant, Achar, who stated that on 19.12.2024, his nephew, Mir Muhammad, was lured to the house of one Ghulam Hussain Machi under the pretense of having tea. Upon arrival, Mir Muhammad was allegedly assaulted by the applicants, Ayaz, Ghulam Hussain, Saddam, and Shahbaz, who purportedly committed acts of sodomy against him. The complainant claims that Mir Muhammad was threatened not to disclose the incident. Following the alleged assault, the victim shared his ordeal with family members, which led to a medical examination and the subsequent lodgment of an FIR on 28.12.2024. The applicants were arrested during the investigation and prior attempts to secure bail in lower courts have been denied, prompting this current bail application. The defense maintains that the case lacks credible evidence, asserting that the applicants were falsely implicated due to a personal dispute.

3. Learned counsel for the applicants contended that the applicants have been falsely implicated due to personal enmity and a dispute over a chingchi rickshaw. It is further contended that no substantial evidence exists against them and there is an unexplained delay of nine days between the alleged incident dated 19.12.2024 and the lodging of the FIR on 28.12.2024, which casts doubt upon the complainant's version. He further submitted that there are no eyewitnesses to the occurrence and the prosecution case mainly rests upon the victim's statement. He contended that the medical examination does not support the allegations and discrepancies exist between the FIR and the medical report regarding the date and place of the alleged incident. He further pointed out that the DNA and medical reports did not reveal any semen traces or corroborative evidence, thereby weakening the prosecution case. Learned counsel added that although the alleged offences carry severe punishment, at the bail stage the court may consider the possibility of lesser punishment. Lastly, learned counsel contended that the applicants are ready to furnish solvent sureties and comply with any conditions imposed by the Court. The learned counsel, therefore, prayed that bail be granted to the applicants.

4. Conversely, learned Deputy Prosecutor General for the State opposed the bail application and argued that the applicants are involved in serious offences punishable under Sections 375-A, 377 and 506 PPC, which require strict consideration. He argued that despite the delay in lodging the FIR, the victim immediately disclosed the incident to family members, which supports the credibility of the allegation. He further contended that even though eyewitnesses are limited, the victim's statement itself provides sufficient grounds to believe that the offence has been committed and requires proper trial. The State counsel argued that delay in FIR is understandable due to trauma and fear faced by victims in such cases and should not be used to discredit the prosecution. He further contended that if the applicants are released on bail there is a likelihood that they may influence witnesses or tamper with evidence. Reliance was also placed on precedents where bail was declined in similar cases due to the

gravity of the allegations. Concluding his arguments, the learned D.P.G. contended that the bail application be dismissed as sufficient material exists connecting the applicants with the alleged offence and justice requires that they remain in custody until conclusion of trial.

5. However, the complainant and the victim have filed affidavits expressing no objection to the grant of bail in favour of the applicants/accused persons.

6. Heard learned counsel for the parties and perused the record with their able assistance. At bail stage the Court is not required to conduct a deeper appreciation of evidence nor to record a finding touching the merits of the case; rather only tentative assessment is to be made to ascertain whether reasonable grounds exist to believe that the applicants are guilty of the offence alleged or the case calls for further inquiry within the meaning of section 497(2) Cr.P.C.

7. It is an admitted position that the applicants/accused were arrested on 01.01.2025 and since then they have remained behind the bar for a considerable period extending to more than one year. Prolonged incarceration before conclusion of trial is itself a relevant factor for grant of bail particularly when the trial is not likely to conclude in near future and the accused persons are no more required for the purposes of investigation.

8. The record further reveals that the FIR has been lodged after an extraordinarily long delay of about nine days from the alleged occurrence. Such abnormal and unexplained delay, at least for the purpose of bail, creates serious doubt about the genuineness of the prosecution story and brings the matter within the ambit of further inquiry. It is a settled principle of law that unexplained delay in reporting an occurrence reduces the evidentiary value of the accusation and calls for cautious evaluation at bail stage.

9. Tentative assessment of medical evidence shows that no marks of violence were found on the body of the alleged victim. The medical examination does not support the prosecution allegation in its material particulars. Moreover, the DNA report has been found

negative and no incriminating substance has been secured connecting the applicants with the commission of the alleged offence. At bail stage, where scientific evidence fails to corroborate the ocular account, the benefit of doubt leans in favour of the accused for the limited purpose of bail.

10. It is correct that the complainant and the victim have filed affidavits expressing no objection to the grant of bail. However, in offences involving serious allegations such affidavits by themselves do not carry decisive weight and cannot be made sole basis for granting bail. Nevertheless, such circumstance can be considered along with other attending facts of the case. In the present matter, independent merits exist which *prima facie* bring the case within the purview of further inquiry.

11. It has also come on record that the challan has already been submitted before the competent Court and the applicants/accused are no more required for further investigation. No useful purpose would be served by keeping them incarcerated for an indefinite period when the evidence is documentary in nature and already secured by the prosecution.

12. Keeping in view the cumulative effect of the circumstances i.e. long incarceration of the applicants, extraordinary delay in FIR, negative DNA report, absence of marks of violence, completion of investigation and the case requiring deeper appreciation of evidence, I am of the tentative view that the case falls within the scope of further inquiry as envisaged under section 497(2) Cr.P.C.

13. Consequently, the applicants/accused were admitted to bail vide order dated 23.02.2025 subject to furnishing solvent surety in the sum of Rs.200,000/- (each) and P.R bond in the like amount to the satisfaction of the trial Court. **These are the reasons of my short order announced earlier.**

JUDGE