

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1742 of 2025

Applicant : Daniyal @ Rohit Kumar @ Deny
son of Daya Ram through Mr. Asad
Ali Kalwar, Advocate

The State : Through Ms. Seema Zaidi,
Additional Prosecutor General,
Sindh along with SIP-Noorullah
Sanjrani of Police Station Gulistan-
e-Jauhar, Karachi East

Date of hearing : 21.11.2025

Date of decision : 21.11.2025

ORDER

Jan Ali Junejo, J.- This Criminal Bail Application under Section 497, Cr.P.C., has been filed by the Applicant seeking post-arrest bail in FIR No. 299/2025 registered at Police Station Gulistan-e-Johar, Karachi (East). The FIR, initially registered under Section 365-B, PPC, was subsequently amended to incorporate offences under Sections 376, 506, and 114, PPC, read with Section 3 of the Prevention of Trafficking in Persons Act, 2018. The Applicant had earlier filed Criminal Bail Application No. 2451/2025, which was dismissed by the learned Additional Sessions Judge-VII / Gender-Based Violence Model Court, Karachi East, through Order dated 29.05.2025.

2. The prosecution case, as set out in the FIR lodged by complainant Jameel Ahmed on 09-05-2025, is that his twenty-year-old daughter, Mst. Misbah, was found missing from their house on 07-05-2025 during the absence of her parents. FIR was lodged alleging abduction with intent to commit zina.

3. During investigation, the victim was recovered and her statement under Section 164 Cr.P.C. was recorded before the learned Judicial Magistrate on 15.05.2025. In her statement, she has clearly and specifically nominated the present applicant and attributed a definite role to him, stating that he befriended her through Facebook under a false identity, deceitfully calling himself "Daniyal", whereas his real name is Rohit Kumar, and thereafter lured her to Millennium Mall, forcibly took her to Sea View and Thatta, kept her confined, abused her physically, raped her, and threatened to kill her if she attempted to return home. In light of

the aforesaid statement, the Investigation Officer added Section 376 PPC, Section 506 PPC, Section 114 PPC and Section 3 of the Prevention of Trafficking in Persons Act, 2018. The medical examination corroborates signs of violence on the body of the victim.

4. Learned counsel for the Applicant submits a series of arguments in support of the bail plea. He contends that the Applicant has been falsely implicated and is completely innocent of the accusations. He argues that the Applicant was not named in the FIR, which was initially lodged against unknown persons, thereby indicating that his later nomination is an afterthought. He further submits that the alleged victim had accompanied the principal accused of her own volition, and therefore the ingredients of Section 365-B, PPC, are not attracted. He argues that there is an unexplained delay of approximately two and a half days in lodging the FIR, which creates serious doubts regarding the prosecution's version. He contends that co-accused Sujal has already been granted bail, and therefore the Applicant is also entitled to the same relief on the principle of consistency. He submits that apart from the statement of the victim, there is no independent corroboration, and the medical report does not establish recent sexual assault. He argues that the case, at the very least, requires further inquiry within the meaning of Section 497(2), Cr.P.C. He further submits that the Applicant has remained in custody since 13.05.2025 and is no longer required for investigation. Accordingly, he prays that the Applicant be admitted to bail.

5. Conversely, the learned Additional Prosecutor General opposes the bail application. She submits that the Applicant has been specifically named with a clear and detailed role in the victim's statement recorded under Section 164, Cr.P.C., before the Judicial Magistrate. She contends that the offences of rape and kidnapping for zina fall squarely within the prohibitory clause of Section 497, Cr.P.C., thereby limiting the Court's discretion to grant bail. She argues that although the victim is an adult, the manner in which she was enticed, deceived, transported, and sexually exploited squarely constitutes trafficking in persons under the 2018 Act. She submits that the medical report supports the allegation of violence and is consistent with the victim's account. She argues that the delay in lodging the FIR is natural and justified in cases involving abduction and sexual assault, particularly due to social stigma and trauma. She contends that the case of co-accused Sujal is distinguishable on facts and does not entitle the present Applicant to bail on parity. She submits further that strong prima facie evidence exists against the Applicant. Accordingly, she prays that the bail application be dismissed.

6. This Court has given anxious consideration to the submissions advanced on behalf of the parties and has examined the record with utmost care. On a tentative assessment of the material available, it appears that although the Applicant was not initially named in the FIR, his subsequent nomination through the victim's statement recorded under Section 164, Cr.P.C., before a Judicial Magistrate carries substantial legal weight. The victim has not only named the Applicant but has also attributed to him acts of deceit through a false identity, forcible transportation, confinement, criminal intimidation, and the commission of rape. It is well-settled that a statement recorded under Section 164, Cr.P.C., is treated, for bail purposes, with the same legal value as naming an accused in the FIR, particularly since such a statement is recorded after the Magistrate satisfies herself regarding its voluntariness. The Applicant stands accused of offences punishable under Section 365-B, PPC; Section 376, PPC; Section 506, PPC; and Section 3 of the Prevention of Trafficking in Persons Act, 2018. These offences squarely fall within the prohibitory clause of Section 497, Cr.P.C., and therefore bail may be granted only in cases where the accusation appears to be manifestly false, frivolous, or inherently improbable on the face of the record, circumstances that are not present in the instant case.

7. The argument that the victim "went willingly" is both misleading and legally untenable. Consent obtained through deception, use of a false identity, emotional manipulation, threats, or physical harm is no consent in the eyes of law and cannot exonerate an accused from liability. The conduct alleged against the Applicant prima facie fulfils the ingredients of sexual exploitation, deceit, and trafficking as contemplated under the Prevention of Trafficking in Persons Act, 2018. In offences involving abduction, sexual assault, and the attendant social stigma, delay in lodging the FIR is generally regarded as natural and legally justified. The emotional and social trauma experienced by the victim and her family sufficiently explains such delay and does not, at the bail stage, create any presumption in favour of the accused. As regards the co-accused, bail was granted on account of a distinct and distinguishable role. The present Applicant, however, is attributed the role of principal offender and direct perpetrator, as per the victim's account. Consequently, the rule of consistency does not apply in the Applicant's favour.

8. It is well settled that the absence of visible injuries does not negate the occurrence of rape. At the bail stage, medical observations cannot override a clear and credible judicial statement of the victim recorded under Section 164, Cr.P.C. The material presently available discloses

direct attribution of a specific role to the Applicant, a voluntary judicial statement supporting the allegations, medical findings consistent with the account, and a reasonable apprehension of repetition of the offence. Collectively, these factors establish a strong prima facie case, and the matter does not fall within the ambit of “further inquiry” under Section 497(2), Cr.P.C.

9. From a tentative assessment of the material on record, it appears that the Applicant is directly implicated; the offences alleged are grave and heinous in nature; the victim has clearly identified him; the investigation has already been concluded against him; and the case is now pending trial. In these circumstances, no ground exists to justify the grant of the extraordinary concession of bail.

10. For the reasons recorded above, this Criminal Bail Application filed on behalf of the Applicant is dismissed. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it. These are the detailed reasons of the Short Order dated: 21-11-2025.

JUDGE

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