

**IN THE HIGH COURT OF SINDH KARACHI**  
**Cr. Bail Application No.2873 of 2025**

Applicant : Muhammad Ismail s/o Muhammad  
Noor Alam  
Through Mr. Nusrat Gul Malik, Advocate

Respondent : The State  
Through Ms. Robina, DPG

Date of hearing : 09.04.2026  
Date of order : 09.04.2026

**ORDER**

**MIRAN MUHAMMAD SHAH, J:-** Through captioned criminal bail application, applicant Muhammad Ismail son of Muhammad Noor Alam, seeks pre-arrest bail in Crime No.498/2025, registered at Police Station Korangi, for the offences punishable u/Ss. 365-B, PPC r/w 3 PITPA. Prior to this application, he had approached the learned Additional Sessions Judge-II/ Special / GBV Court, Karachi East, with the same plea, but it was declined, vide order dated 08.10.2025. He was admitted to interim pre-arrest bail by this court, vide order dated 20.10.2025, and the matter is now fixed for confirmation of the same or otherwise.

2. The facts of the case are need not to be reproduce herein, as the copy of FIR is attached with the bail application and the facts are also stated in detail therein.

3. Heard and record perused.

4. Admittedly, the name of the present applicant does not transpire in the FIR. The record also reflects that the alleged abductee, Mst. Tabassum, has contracted a marriage of her free will with the applicant. In support thereof, the applicant has placed on record a free will affidavit as well as a Nikahnama, which prima facie substantiates his stance. It is also

noteworthy that the statement of the alleged abductee under Section 164 Cr.P.C. was recorded before a Magistrate, wherein she categorically denied the allegations of abduction and stated that she had contracted marriage with the applicant out of her own free will and without any coercion or duress. In these circumstances, when the star witness herself has not supported the prosecution version, the case of the applicant clearly calls for further inquiry within the meaning of Section 497(2) Cr.P.C. Furthermore, after the grant of interim pre-arrest bail, the applicant has joined the investigation as well as attended the trial proceedings regularly. There is nothing on record to suggest that he has misused the concession of interim pre-arrest bail. Learned Deputy Prosecutor General has contended that although the alleged abductee claims to have contracted marriage of her own free will, her age is stated to be around 14-15 years, thus rendering the marriage legally questionable. However, it is observed that no conclusive documentary proof regarding her exact age has been placed on record at this stage. The determination of age is essentially a question of fact, which requires proper evidence, including medical examination and documentary verification, and can only be conclusively resolved during trial. Even otherwise, it is by now well-settled that mere assertion of minority, without substantiation, is insufficient to override a voluntary statement recorded under Section 164 Cr.P.C., particularly for the purpose of deciding bail. The question whether the alleged abductee was a minor at the time of the occurrence, and if so, the legal implications thereof, including the validity of consent and marriage, are matters which require deeper appreciation of evidence and fall within the domain of trial. In these circumstances, the applicant has succeeded in making out a case for confirmation of pre-arrest bail. Accordingly, the interim pre-arrest bail already granted to the applicant is hereby confirmed on the same terms and conditions.

5. Needless to mention here that the observation made herein above are tentative in nature and would not influence the trial court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial court shall be at liberty to cancel the same after giving him notice, in accordance with the law.

Criminal bail application stands disposed of.

**JUDGE**

Suleman Khan/PA

