

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT  
HYDERABAD**

Cr. Bail Application No.S-115 of 2026  
Cr. Bail Application No.S-223 of 2026

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| <b>DATE</b> | <b>ORDER WITH SIGNATURE OF JUDGE(S)</b> |
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**07.07.2026.**

Mr. Rajab Ali Chang, Advocate for applicants alongwith applicant Muhammad Hassan.

Mr. Umair Babar K.K, Advocate for complainant.

Mr. Irfan Ali Talpur, Deputy Prosecutor General.

**ORDER**

**SYED FIAZ UL HASSAN SHAH, J.-** Applicants have been booked in Crime No.140 of 2024 registered at P.S B-Section, Tando Allahyar under Section 365-B PPC.

2. The allegations against the applicants are that on 18.07.2024 at about 10:00 a.m. the complainant's daughter namely Emam Fatima went to the Madarsah for studying and returning the books of Madarsah but did not turn back. The complainant and his son namely Muhammad Danish and Muhammad Waqas Kaimkhani tried their best in searching out of Emam Fatima and ultimately the present FIR was registered against unknown persons. Subsequently, the applicant Amjad Ali and his mother Mst. Zulekhan appeared before the police station and disclosed that he has contracted freewill marriage with Mst. Emam Fatima and produced her Nikahnama. However, later on the victim got recorded her statement vide Roznamcha Entry No.32 at 1810 hours disputing the Nikahnama. Later the victim got recorded her statement under Section 164 Cr.P.C before the concerned Magistrate and implicated Muhammad Hassan for separate incident of abduction and wrongful confinement.

3. Heard learned Counsel for the applicants, learned Counsel for the complainant and learned APG assisted by I.O SIP Ashgar and perused the record.

4. A bare reading of the statement of the alleged victim recorded under Section 164 Cr.P.C reveals that the essential ingredients constituting the offence of abduction are, *prima facie*, not attracted. According to her own statement, she had voluntarily gone to the house of applicant Muhammad Hassan and met with his family, where, as alleged by her, an altercation subsequently took place. The alleged victim is also present before this Court and has categorically stated that she solemnized marriage with applicant Amjad Ali of her own free will, that the marriage has since been consummated, and that a minor child has been born out of the said wedlock, whom she is presently nurturing with the financial support of the family of applicant Amjad Ali. The Investigating Officer, who is also present in Court, candidly stated that during the initial stage of investigation the victim alleged that the marriage had been performed under coercion; however, she subsequently changed her stance and admitted that the marriage had been voluntarily solemnized and consummated. The Investigating Officer further confirmed that the *Nikahnama* was duly verified during the course of investigation. It is also significant that the Investigating Officer did not find sufficient material to attract any other penal provisions relating to rape or assault as alleged by the victim. In these circumstances, the applicants have made out a case of further inquiry.

5. In view of the above facts and in particular the presence of a newly born child, the present case is of further inquiry and the offence does not fall within the limb of prohibitory clause of Section 497 Cr.P.C and grant of bail is thus right where offence falling under non-prohibitory clause of Section 497 Cr.P.C. The applicant cannot be kept behind the bars for an indefinite period to face incalculable period of trial. In such like cases grant of bail is right and its refusal is exception as held by the Hon'ble Supreme Court in case of MUHAMMAD TANVEER v. The STATE & another (PLD 2017 Supreme Court 733).

6. The material available on record when examined in its true perspective *prima facie* reflects *mala fide* on the part of the complainant. The allegations at this stage do not inspire sufficient confidence to justify the continued incarceration of the applicants, particularly when the prosecution has failed to produce any convincing material warranting the denial of the concession of bail. The question of the truthfulness or otherwise of the allegations shall, however, be determined by the learned trial Court after recording evidence. Therefore, without expressing any opinion on the merits of the case, the

applicants are entitled to the concession of bail. Consequently, ad-interim pre-arrest bail already granted to applicant Muhammad Hassan son of Mumtaz Ali vide order dated 27.01.2026 is hereby confirmed on the same terms and conditions; whereas, applicant Amjad Ali son of Gulzar Ahmed Rind is admitted to post arrest bail, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and P.R Bond in the like amount to the satisfaction of the learned trial Court.

7. Needless to observe that the reasons recorded hereinabove are purely tentative in nature, confined solely to the purpose of deciding the instant bail application and shall not prejudice or influence the case of either party during the trial.

JUDGE

Shahid