

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1062 of 2026

Applicant : Ali Ahmed son of Muhammad Soomar,
through Mr. Abdul Khaliq Jokho, Advocate

Complainant : Qadir Bux, through Mr. Muhammad
Ramzan, Advocate.

Respondent : The State
Through Ms. Rubina Qadir, Addl. P.G,
Sindh.

Date of hearing : 31.07.2026

Date of order : 31.07.2024

ORDER

AMJAD ALI SAHITO, J -- Through the instant bail application, the applicant/accused seeks the extraordinary concession of pre-arrest bail in Crime No.32 of 2026, registered under Sections 376, 504 and 34 of the Pakistan Penal Code, 1860, at Police Station Mirpur Sakro, District Thatta, after his application for pre-arrest bail was declined by the learned Sessions Judge, Thatta, vide order dated 01.04.2026.

2. The facts and particulars of the FIR have already been reproduced in the bail application and are also available in the copy of the FIR annexed thereto. Therefore, in order to avoid unnecessary repetition, the same are not being reproduced herein.

3. The applicant is presently enjoying the concession of interim pre-arrest bail. The instant bail application was instituted on 08.04.2026, and on the very same date, interim pre-arrest bail was granted to the applicant. The matter was thereafter fixed for 04.05.2026, and copies of the bail application were supplied to the learned counsel for the complainant. Subsequently, the case was adjourned from time to time on one pretext or another, and no effective progress could be made in the matter. Today, once again, Mr. Hosh Muhammad, Advocate, holding brief for Mr. Abdul Khaliq Jokhio, learned counsel for the applicant, sought an adjournment on the ground that the latter was out of station. The request was vehemently opposed by the learned counsel for the complainant as well as the learned Assistant Prosecutor General, who submitted that the applicant had allegedly committed rape upon a young girl, namely Mst. Zarina, and had circulated the video of the incident

within the village. It was further contended that the accused and his associates were extending threats and coercion to compel the complainant party to withdraw the case, thereby endangering the life, liberty and safety of the victim. Considering the gravity and seriousness of the allegations, coupled with the fact that the matter has remained pending for the last four months without any meaningful progress owing to repeated adjournments sought on behalf of the applicant, the request for adjournment is declined.

4. Learned counsel for the complainant read over the contents of the FIR. The applicant, who is present in person, submits that he is innocent and has been falsely implicated in the present case. However, a perusal of the record, particularly the grounds urged by the applicant in the instant bail application, which are reproduced hereinbelow, reveals as follows:

“ That the Medico Legal Report (MLR) of the victim does not support the allegation level against the applicant. As per the Medical examination, No marks of violence were noted on the body of the victim, not tears or semen were her body or on clothes, all findings in Medical report has been recorded as "normal".

That there are no reasonable grounds to believe that the present Accused has committed the offence with which he stands charged.

That there is inexplicable and unexplained delay of approximately 45 Days in lodging the FIR, as the alleged incident is said to have occurred about one and half month ago, whereas in the FIR, allegedly incident is said to be on today that meant to be committed on the day of lodging FIR allegedly which is very contradictive. Besides these, no plausible explanation has been offered for such inordinate delay, which itself amounts to a sufficient ground for grant of bail.

That there exists a material contradiction between the version set out in the FIR and the subsequent statement 164 Cr.PC of alleged victim as per the FIR it was alleged that all accused have committed rape with her including the present applicant. However in her recoded statement 164 Cr.PC of Mrs. Zarina, she has alleged stated that she was raped by the two other accused in her statement. This fundamental contradiction strikes at the very root of the prosecution case and demonstrate that the applicant has been roped in with suspicious circumstances and falsely implicated in the alleged offence due enmity between the parties.

That the prosecution has failed to collect or produce any circumstantial evidence such as footprints, location verification, or recovery from the alleged place of occurrence, which creates

serious doubt about the actual happening of the alleged incident.

That the version the FIR regarding the threat extended by the accused is also contradict by the victims statement of u/s 164 Cr.PC as per FIR the accused threatened that if the victim disclose the incident, they would repeat the act and make a video. Conversely, in her statement, victim alleges that the two accused not only raped her but also made a video of incident, this contradiction regarding the existence of a video at the time of alleged incident renders the prosecution case highly doubtful and creates serious infirmity requiring the further inquiry.

That the cumulative effect of the contradiction in the prosecution case, unexplained delay in registration of FIR, Medical Evidence not supporting the allegations, absence of any forensic report, and non-existence of the alleged video periods such circumstances that the case of the applicant false squarely within the ambit of the further inquiry as provided under section 497(2) Cr.PC. The applicant is entitled to the concession of bail pending trial.

That the complainant and accused have matrimonial disputes therefore the complainant have malafidely foisted accused persons in this false and fabricated incident.

That the prosecution has failed to collect or produce any circumstantial evidence such as footprints, location verification, or recovery from the alleged place of occurrence, which creates serious doubt about the actual happening of the alleged incident.

That the investigation has been carried out in a slipshod and mechanical manner, without collecting essential evidence, thus rendering the prosecution case doubtful and entitling the applicant to bail.

That the prosecution has failed to assign any specific motive to the present applicant for committing the alleged offence, which is a relevant consideration while determining culpability at bail stage.

That even otherwise, the role attributed to the applicant is vague and non-specific, lacking details regarding the exact act allegedly committed by him, which makes the case of the applicant distinguishable from co-accused.

That even a single circumstance creating doubt is sufficient to extend benefit in favour of the accused, and in the present case multiple infirmities exist, thus making the applicant entitled to bail.

That the case of the prosecution is based solely upon the statements of interested and related witnesses, without any independent corroboration, which requires cautious consideration.”

5. On the other hand, learned counsel for the complainant vehemently opposed the grant of pre-arrest bail and submitted that the applicant has committed a heinous offence of rape upon the victim, Mst. Zarina, and further recorded a video of the incident, which was subsequently circulated throughout the village, thereby subjecting the victim to immense humiliation, social stigma and psychological trauma. It was argued that, as a consequence of the circulation of the said video, the victim's life has become miserable and her safety, dignity and liberty remain under constant threat. Learned Assistant Prosecutor General also opposed the bail application and, while referring to the statement of the victim recorded under Section 164, Cr.P.C., submitted that the victim has unequivocally supported the prosecution case. He adopted the submissions advanced by the learned counsel for the complainant and finally prayed for dismissal of the instant bail application.

6. Heard the learned counsel for the parties, the learned Assistant Prosecutor General, and perused the available record with their able assistance.

7. The prosecution case, as set out in the FIR and the material collected during investigation, is that the complainant's younger sister, namely Mst. Zarina, aged about 22/23 years, had gone outside her house into the nearby forest in search of goats when the present applicant, in furtherance of a common intention with his two co-accused, allegedly dragged her into nearby bushes, where the applicant committed rape upon her. It is further alleged that the applicant recorded a video of the incident and thereafter threatened the victim that if she disclosed the occurrence to anyone, the video would be circulated throughout the village.

8. The name of the present applicant specifically appears in the FIR with the assigned role of committing rape upon the victim and preparing the objectionable video, which was subsequently disseminated within the village. The statement of the victim recorded under Section 164, Cr.P.C. lends substantial support to the prosecution case. In her judicial statement, the victim categorically reiterated the allegations levelled in the FIR and specifically deposed that the present applicant committed rape upon her, recorded the video of the occurrence, and thereafter handed over the said video to his brother, who circulated it within the village. The material available on record prima facie demonstrates that, owing to the

dissemination of the video, the victim has suffered severe humiliation, social ostracization and psychological distress, making it difficult for her to lead a normal and dignified life.

9. The ocular account is, at this stage, prima facie corroborated by the medical evidence. Learned Assistant Prosecutor General further submitted that the Investigating Officer has also secured the video relating to the occurrence during the course of investigation. The offence alleged against the applicant falls squarely within the prohibitory clause of Section 497, Cr.P.C., as the prescribed punishment under Section 376, PPC extends to death or imprisonment of either description for a term not less than ten years and which may extend to twenty-five years.

10. It is trite law that, at the stage of deciding a bail application, only a tentative assessment of the material available on record is to be undertaken without touching upon the merits of the case. From such tentative assessment, sufficient incriminating material is available on record connecting the present applicant with the commission of the alleged offence. The prosecution case, at this stage, cannot be said to suffer from any inherent improbability or legal infirmity so as to entitle the applicant to the extraordinary concession of pre-arrest bail.

11. It is by now a settled principle of criminal jurisprudence that the concession of pre-arrest bail is an extraordinary and exceptional relief, which can only be granted where the Court is satisfied that the intended arrest of an accused is actuated by mala fide, ulterior motives, or constitutes an abuse of the process of law by the complainant or the investigating agency. In the present case, not even a semblance of material has been brought on record to suggest any mala fide, personal vendetta, ill-will or ulterior motive on the part of either the complainant or the Investigating Officer that may reasonably justify an inference of false implication. Reliance in this regard may safely be placed upon the judgment of the Honourable Supreme Court of Pakistan in *Rana Abdul Khaliq v. The State and others* (2019 SCMR 1129), wherein it has authoritatively been held that pre-arrest bail is an extraordinary remedy, constituting a departure from the ordinary course of criminal law relating to arrest in cognizable offences, and is intended solely to protect an innocent person from harassment through mala fide prosecution. It has further been held that such relief cannot be treated as a substitute

for post-arrest bail in ordinary criminal cases, and that an applicant seeking this exceptional relief must establish, through cogent and convincing material, that the proposed arrest is tainted with mala fide and is intended merely to humiliate or harass him. In the instant case, learned counsel for the applicant has failed to point out any circumstance, much less place any material on record, indicating mala fide, personal enmity, ulterior motive or abuse of the process of law by either the complainant or the investigating agency so as to persuade this Court to conclude that the applicant has been falsely implicated.

12. For the foregoing reasons, I am of the considered view that the applicant has failed to make out a case for confirmation of the interim pre-arrest bail already granted to him, nor has he succeeded in bringing his case within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. Consequently, the interim pre-arrest bail granted to the applicant vide order dated 08.04.2026 is hereby recalled, and the instant bail application is dismissed.

13. It is clarified that the observations made hereinabove are purely tentative in nature, confined exclusively to the adjudication of the present bail application, and shall neither prejudice nor influence the learned trial Court while deciding the case strictly on the basis of the evidence that may be produced before it and in accordance with law.

JUDGE

Hyder/PS*