

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.2810 of 2025**

Applicant : Waqar Hassan, Through: Mr. Hussain Bux Mari, Advocate.

Complainant : Mst. Nazia, Through: Ms. Shela Anjum, advocate

The State : The State: Through: Mr. Sharaf-ud-Din Kanhar, Additional Prosecutor General, Sindh

Date of hearing : 23.04.2026

Date of Order : 23.04.2026

### **ORDER**

**Jan Ali Junejo, J:**-- This order intends to dispose of the instant Criminal Bail Application filed by the applicant/accused, Waqar Hassan, seeking post-arrest bail in connection with FIR No. 159/2025 registered at Police Station Sher Shah under Sections 376/511 of the Pakistan Penal Code (PPC). The application has been heard, and the arguments advanced by the learned counsel for the parties have been carefully considered.

2. The FIR No. 159/2025 was lodged by Nazia, wife of Faisal, on 01.09.2025, reporting an incident that occurred on the previous Sunday (approximately 24.08.2025). The complainant stated that her husband had taken their daughters, Ayesha (9 years) and Dua (8 years), to his house. Upon their return, her daughter Ayesha disclosed that her uncle Waqar (the applicant/accused) had committed an improper act with her in her father's absence, specifically putting his fingers on her private parts. Ayesha further stated that Waqar Hassan threatened her not to disclose the incident.

Based on this statement, the FIR was registered under Sections 376/511 PPC.

3. The learned counsel for the applicant/accused, Mr. Hussain Bux Mari, vehemently argued that the applicant is innocent and has been falsely implicated in the present case due to a family dispute between the complainant and her husband. It was contended that there is no eye-witness to the alleged incident, and an unexplained delay of eight days occurred in lodging the FIR. The counsel further submitted that there is no medical report or documentary evidence against the applicant, and contradictions exist between the FIR and the victim's statements recorded under Sections 161 and 164 Cr.P.C. It was also argued that the alleged incident took place in a thickly populated area, yet the victim did not raise any hue and cry, nor was any private or eye-witness produced. The counsel emphasized that Section 376 PPC is not attracted, and the case requires further inquiry. Lastly, it was prayed that the applicant, being a law-abiding citizen with a stainless record, should be enlarged on bail as he has joined the investigation and is no longer required for further investigation. It was also asserted that the case does not fall within the prohibitory clause of Section 497(1) Cr.P.C., and bail is better than jail.

4. The learned counsel for the complainant, Ms. Shela Anjum, strongly opposed the grant of bail, contending that the victim has fully implicated the accused in her statements under Sections 161 and 164 Cr.P.C. It was argued that sufficient incriminating material is available on record connecting the applicant/accused with the

commission of the alleged crime. The counsel maintained that the alleged offence is serious and heinous in nature, involving a minor victim, and therefore, the applicant is not entitled to bail.

5. The learned A. P. G. Sindh, Mr. Sharafuddin Kanhar, also opposed the bail application. He reiterated that the victim's statements under Sections 161 and 164 Cr.P.C. clearly implicate the accused. He emphasized the gravity of the offence under Sections 376/511 PPC, which are non-bailable, and argued that there is prima facie sufficient evidence on record to connect the applicant with the alleged offence. He prayed for the dismissal of the bail application.

6. This Court has given careful consideration to the arguments advanced by the learned counsel for the applicant/accused, the learned counsel for the complainant, and the learned A. P. G. Sindh, and has perused the available record. The allegation against the present applicant/accused is that he attempted to commit rape on a minor, Ayesha, aged about 9 years. From the perusal of the record, it transpires that the complainant nominated the applicant/accused in the FIR with a specific role. The case file further shows that the victim also nominated the applicant/accused with a specific role in her statement recorded under Section 161 Cr.P.C. and her statement under Section 164 Cr.P.C. recorded before the concerned learned Judicial Magistrate. The offences fall under Sections 376/511 PPC, which are non-bailable and of a heinous nature, involving a minor victim. At this stage, sufficient incriminating material is available on record which prima facie connects the accused with the commission of the alleged offence. The defense counsel stressed upon the

absence of an eye-witness. However, this Court is fortified by the dicta laid down in Case of *Atif Zareef and others v. The State (PLD 2021 Supreme Court 550)*, wherein the Honourable Supreme Court observed that: *“Rape is a crime that is usually committed in private, and there is hardly any witness to provide direct evidence of having seen the commission of crime by the accused person. The courts, therefore, do not insist upon producing direct evidence to corroborate the testimony of the victim if the same is found to be confidence inspiring in the overall particular facts and circumstances of a case, and considers such a testimony of the victim sufficient for conviction of the accused person. A rape victim stands on a higher pedestal than an injured witness, for an injured witness gets the injury on the physical form while the rape victim suffers psychologically and emotionally”*. Though the requirement under Section 8(b) of the Offences of Zina (Enforcement of Hudood) Ordinance, 1979 mandates proof by at least four Muslim adult male witnesses, who, after *tazkiyah al-shuhood*, are found to be truthful and abstaining from major sins and who depose as eye-witnesses to the act of penetration, such a stringent and exceptional standard of proof is not envisaged under the Pakistan Penal Code, 1860, where offences are to be proved on the basis of the general rules of evidence and the test of proof beyond reasonable doubt, which may be satisfied through circumstantial, medical, or other admissible evidence. In similar circumstances, in the case of *Zahid v. The State (2022 SCMR 50)*, the Honourable Supreme Court of Pakistan observed that: *“Although in the instant case, the statement of the victim is fully corroborated by the statement of PW-1 but law is very clear about this that the statement of the victim in isolation itself is*

*sufficient for conviction if the same reflects that it is independent, unbiased and straight forward to establish the accusation against the accused”.*

7. The accused has failed to show any enmity of the complainant towards him for false implication in the present case. It is an established principle of law that for the purpose of bail, only a tentative assessment can be made, and a detailed assessment and tabulation of evidence should be left for the judgment. Prima facie, the prosecution has a good and connecting case against the applicant/accused. In such circumstances, this Court does not find merits in the instant bail application.

8. For the reasons recorded above, the instant Criminal Bail Application is hereby dismissed. Consequently, the interim bail granted to the applicant vide order dated 16.10.2025 is hereby recalled. The applicant, Waqar Hassan, who is present on interim bail, is hereby taken into custody. Needless to mention here that the observations given in this bail order are of a tentative nature and shall not affect the merits of the case. It is, however, clarified that all observations hereinabove are purely tentative and confined to the adjudication of the present bail application. Nothing stated in this Order shall be construed as an opinion on the merits of the case, and the trial Court shall proceed independently, uninfluenced by any observations contained herein. These are the detailed reasons for the short order dated 23.04.2026.

**JUDGE**