

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.204 of 2026

Applicant : None appeared.

Complainant : Mukhtiar Hussain, Through:
Mr. Ali Raza Advocate

The State : The State: Through Mr. Abrar Ali
Khichi, Addl. P. G. Sindh

Date of hearing : 17.03.2026

Date of Order : 17.03.2026

ORDER

Jan Ali Junejo, J:-- Through this order, I intend to dispose of the instant post-arrest bail application filed by the applicant/accused Asim Sadiq, who seeks his release on bail in FIR No. 446/2025 registered under Sections 365-B/376(ii) PPC read with Sections 3/4 of the Sindh Child Marriage Restraint Act at Police Station Mominabad, Karachi. The applicant has impugned the order dated 27.10.2025 passed by the learned Xth Additional District & Sessions Judge (West), Karachi, whereby his bail application was declined.

2. Brief facts of the case, as reflected from the FIR, are that the complainant alleged that his daughter namely Hussan Jahan, aged about 16/17 years, had eloped from the house on 12.07.2025 with the present applicant/accused, who resided in the neighborhood. It was further alleged that the accused enticed and took away the minor girl with intention of marriage or illicit relations, and she also took with her gold ornaments, cash, and a mobile phone. Subsequently, the accused was arrested and the alleged abductee was recovered during investigation.

3. On 10.03.2026 learned counsel for the applicant appeared and argued the matter at length, contending that the applicant is innocent and has been falsely implicated in the present case; that there is an unexplained delay of 16 days in lodging the FIR; that the applicant has contracted a court marriage with the alleged abductee; that there are material contradictions in the statement of the alleged abductee recorded under Section 164 Cr.P.C.; that the applicant has not been nominated in the FIR and no direct or specific role has been assigned to him; and that there is no eyewitness to the alleged incident. Lastly, he prayed that the applicant, being behind bars since his arrest and no longer required for further investigation, may be enlarged on bail.

4. The learned Additional Prosecutor General, Sindh assisted by learned counsel for the complainant vehemently opposed the grant of bail and contended that the alleged abductee is a minor and her consent is of no legal value under the law. It was argued that the medical evidence and record support the minority of the victim and that the applicant has committed serious offences, including rape, which fall within the prohibitory clause of Section 497 Cr.P.C. It was further contended that the applicant knowingly contracted marriage with a minor girl in violation of the Sindh Child Marriage Restraint Act, and sufficient incriminating material is available on record connecting him with the commission of offence. Lastly, it was prayed that the bail application be dismissed.

5. I have considered the arguments advanced by the learned counsel for the parties and have perused the available record with

their able assistance. It is an admitted position on record that the alleged abductee has been recovered and her statement under Section 164 Cr.P.C. has been recorded before a Magistrate, wherein she has categorically stated that she was not kidnapped and had gone with the applicant on her own free will and contracted marriage with him. This aspect of the case, at least tentatively, negates the element of abduction as contemplated under Section 365-B PPC and creates a doubt regarding the prosecution story to that extent.

6. So far as the allegation of rape is concerned, it is evident from the record that the relationship between the parties is claimed to be that of husband and wife, based on a Nikah. The question whether such marriage is legally valid or hit by the provisions of the Sindh Child Marriage Restraint Act, and whether the age of the prosecutrix renders her consent legally ineffective, are matters which require deeper appreciation of evidence and are to be determined by the trial Court after recording evidence. At this stage, these aspects bring the case within the ambit of further inquiry as envisaged under Section 497(2) Cr.P.C.

7. Moreover, the age of the alleged abductee has been assessed as approximately 17 years, which is a borderline determination and not free from doubt. The evidentiary value of such assessment and its legal implications also call for deeper scrutiny at trial. It is a settled principle of law that where further inquiry is warranted, concession of bail is to be extended.

8. Furthermore, the applicant is in custody, investigation has been completed and challan has already been submitted before the trial Court. No useful purpose would be served by keeping the applicant behind bars for an indefinite period. There is nothing on record to suggest that the applicant is a previous convict or that he is likely to abscond or tamper with the prosecution evidence.

9. In view of the foregoing facts and circumstances, and without delving into the merits of the prosecution evidence, I am of the tentative opinion that the case of the applicant falls within the ambit of further inquiry. Consequently, the instant bail application is allowed. The applicant/accused Asim Sadiq is admitted to post-arrest bail in the aforesaid case subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Lacs only) and a PR bond in the like amount to the satisfaction of the learned trial Court. Observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial. These are the detailed reasons for the Short Order dated: 17.03.2026.

JUDGE