

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 3114 of 2025.

Applicant : Rehan through Mr. Liaquat Ali Khan,
Advocate.

Respondent : The State through Mr. Mohammad
Noonari, D.P.G. Sindh

Date of hearing : 03.3.2026.

Date of order : 11.3.2026.

ORDER

TASNEEM SULTANA-J.:- Through the instant application, the applicant Rehan seeks post-arrest bail in FIR No.468 of 2025 registered at Police Station Defence, Karachi South. Having been rejected his earlier post arrest Bail Application No.4143 of 2025 by the learned Additional Sessions Judge/Special Judge (ARITA-2021), Karachi South vide order dated 13-11-2025, the applicant has filed the instant application seeking the same concession.

2. Brief facts of the prosecution case are that the complainant Ashraf Ahmed Siddiqui reported that on 08.10.2025 he along with his wife had gone to their old house in Orangi Town and upon returning home at about 2100 hours the children informed him that his daughter Maryam had gone out of the house and had not returned. The complainant suspected that his daughter, aged about 15 years, had been abducted by the present applicant Rehan with the assistance of his friend Fareed with the intention to marry or commit zina with her, and that cash amounting to Rs.10,000/- and some clothes were also taken along. On such allegations the above FIR came to be registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case; that the alleged victim in her statement recorded under Section 164 Cr.P.C. stated that no one had kidnapped her and that she had left the house of her own free will and contracted marriage with the applicant; that she also expressed her willingness to reside with the applicant; therefore, according to learned counsel, no offence as alleged in the FIR is made out against the applicant and he is entitled to the concession of bail.

4. Conversely, learned D.P.G. for the State assisted by learned counsel for the complainant opposed the grant of bail and contended that the alleged victim is a minor as reflected from the birth certificate as well as the ossification test report issued by the Office of the Police Surgeon Karachi; that the investigation record further shows that the Nikah Khawan, in his statement recorded under Section 161 Cr.P.C., has denied having solemnized any Nikah

between the alleged victim and the present applicant; that the plea of marriage set up by the defence is therefore doubtful at this stage; and that the material collected during investigation furnishes reasonable grounds to believe the involvement of the applicant in the commission of the alleged offences; therefore the applicant does not deserve the concession of bail.

5. Heard. Record perused.

6. At the bail stage, the Court is required to make a tentative assessment of the available material without undertaking deeper appreciation of evidence. In the present matter, the prosecution case has culminated into submission of challan for offences under Section 376(iii), P.P.C. read with Sections 3/4 of the Sindh Child Marriage Restraint Act. The record reflects that the alleged abductee, in her statement recorded under Section 164 Cr.P.C., stated that no one had kidnapped her and that she had left the house of her own free will and contracted marriage with the applicant. However, even if such statement is taken at its face value for the purposes of bail, the material placed on record, including the birth certificate as well as the ossification test report issued by the Office of the Police Surgeon Karachi, prima facie reflects that the age of the alleged abductee is between 15 to 16 years, meaning thereby that she was below 18 years at the relevant time.

7. It is noteworthy that the Section 376 P.P.C. is the penal provision relating to the offence of rape and carries punishment extending from ten years to twenty-five years or imprisonment for the remainder period of natural life, thereby bringing the matter within the prohibitory clause of Section 497 Cr.P.C. The offence of rape, as defined under Section 375 P.P.C., inter alia includes circumstances where sexual intercourse takes place with a female who is below the legally prescribed age irrespective of her consent. Where the prosecutrix is prima facie below the legally prescribed age, the plea of consent or free will loses its legal significance.

8. It further reflects that P.W Moulana Asfar Ali, the Nikah Khawan, in his statement recorded under Section 161 Cr.P.C., has denied having solemnized any Nikah between the alleged abductee and the present applicant, thereby prima facie casting serious doubt upon the plea of marriage set up on behalf of the applicant.

9. Had the controversy before the Court been confined solely to an alleged breach of the Sindh Child Marriage Restraint Act, the matter might have been viewed differently; however, the case does not remain so confined once it is examined in the context of allegations attracting offences of kidnapping and rape, which carry severe punishments and entail serious consequences. Where the prosecutrix is prima facie below 18 years of age, the alleged

solemnization of marriage by itself cannot be treated as a circumstance sufficient to absolve the accused from the penal consequences at this stage.

10. In view of the above, the material available on record prima facie furnishes reasonable grounds to believe that the applicant is connected with the commission of the alleged offences; therefore, the case does not fall within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. Consequently, this Criminal Bail Application is dismissed.

11. The observations made herein are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE