

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.2378 of 2025

Applicant :	Muhammad Abid through Mr. Abid Abbas, Advocate.
Complainant :	Roshna through Mr. R. K. Kohistani, Advocate.
Respondent :	The State through Ms. Rubina Qadir Addl. P.G. Sindh
Date of hearing :	29.01.2026.
Date of order :	29.01.2026.

TASNEEM SULTANA, J.— Through this Criminal Bail Application, the applicant Muhammad Abid seeks pre-arrest bail in FIR No.272 of 2025 registered at Police Station Saeedabad, Karachi for the offence under section 364-A, P.P.C., 3(2)TIP Act 2018 read with sections 3 and 4 of the Sindh Child Marriages Restraint Act, 2013. Earlier, his bail before arrest application bearing No.3051 of 2025 was declined by the learned Xth Additional Sessions Judge, Karachi West vide order dated 15.07.2025; hence, this application for the same concession.

2. Brief facts of the prosecution case, are that the complainant Roshna stated that on 29-05-2025 at about 0630 hours a call was received on her husband's mobile phone number 0344-2618997 from number 0316-2790657, which was attended by her daughter Mariam aged about 12/13 years, who told that she was going outside and would return shortly, however, she did not return; despite search she could not be traced and her mobile phone was found switched off; thereafter, after consultation, she approached the police station and alleged that some unknown person(s), by inducement, had taken away her minor daughter for the purpose of marriage or zina; hence, the instant FIR was lodged.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that the alleged abductee had gone with the applicant of her own free will; that she has contracted marriage with the applicant and in her statement recorded under section 164, Cr.P.C. she has denied the allegation of kidnapping; that no case under section 364-A, P.P.C. is made out; that the applicant has joined investigation; that the matter calls for further inquiry; and prayed for grant of pre-arrest bail.

4. Learned Deputy Prosecutor General, assisted by learned counsel for the complainant, opposed the application; submitted that the alleged abductee is a minor; that her consent is of no legal consequence; that the material collected during investigation, including medical evidence, supports her minority; and prayed for dismissal of the application.

5. Heard. Record perused.

6. At the bail stage, the Court is required to make only a tentative assessment of the material available on record and not to undertake deeper appreciation of evidence. In the present case, the FIR was initially registered under section 364-A, P.P.C. read with section 3(2) of the TIP Act, 2018; however, during the course of investigation, it surfaced that the applicant had allegedly contracted marriage with the prosecutrix while she was below the legally prescribed age, whereupon sections 3 and 4 of the Sindh Child Marriages Restraint Act, 2013 were also incorporated. The allegation, thus, is that the minor daughter of the complainant was taken away from the lawful guardianship.

7. 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 contracted marriage with the applicant of her own free will; however, such statement, at this stage, cannot be examined in isolation. The material collected during investigation, including the medical age determination report, (ossification report) prima facie shows that the age of the alleged abductee falls within the range of about 14 to 15 years, while the documentary record also suggests that she is below eighteen years of age; in such circumstances, her consent or willingness, even if assumed for the sake of argument, carries no legal value.

8. So far as section 364-A, P.P.C. is concerned, it relates to the taking or enticing away of a minor girl from the lawful guardianship of her parents or lawful guardian for purposes including marriage or illicit intercourse, and in such cases the consent of a minor is of no legal consequence; therefore, where the prosecutrix is prima facie shown to be a minor, the plea of free will or alleged marriage does not take the case out of the ambit of the said provision at this stage.

9. It is further noted that the learned Magistrate, after recording the statement of the alleged abductee under section 164, Cr.P.C., observed that she appeared to be below eighteen years of age and directed that her custody be handed over to the Women/Child Protection Authority for safe

custody, which prima facie supports the prosecution case regarding her minority and vulnerability.

10. It may further be observed that in cases of this nature, the plea of free will and subsequent marriage is often set up as a complete answer to the prosecution case; however, where the girl is prima facie shown by the material collected during investigation to be below the age recognized by law for the purposes of child marriage restraint, such plea, by itself, cannot eclipse the penal consequences at this stage; whether the statement recorded under section 164, Cr.P.C., the alleged marriage, and the age-related documents ultimately favour the defence or the prosecution is a matter to be determined by the learned trial Court after recording evidence.

11. So far as the contention regarding delay in lodging of the FIR is concerned, the same, by itself, is not sufficient to entitle the applicant to the concession of bail where the accusation is of serious nature and the material available on record furnishes reasonable grounds, at least tentatively, connecting the applicant with the commission of the alleged offence.

12. In view of the above, I am of the tentative opinion that there exist reasonable grounds to believe that the applicant is connected with the commission of the alleged offence; therefore, the instant bail application does not merit acceptance.

13. These are the reasons of the short order dated 29.01.2026, whereby the instant bail application was dismissed.

14. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE