

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.S-3526 of 2025

Applicant : Syed Muhammad Arman son of
Muhammad Anwar through Mr.
Shujat Ali Khan, Advocate

Respondent : The State through Ms. Rukhsana
Mirjat, ADPP

Date of hearing : 29.04.2026

Date of decision : 29.04.2026

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application filed under Section 498, Cr.P.C., Applicant-Syed Muhammad Arman son of Muhammad Anwar seeks pre-arrest bail in FIR No.400 of 2025, registered at Police Station Itehad Town, for offence under Section 365-B PPC read with Section 3/4 of the Child Marriage Restraint, Act, 2013, calling in question the Order dated 16.12.2025, passed by the learned Additional Sessions Judge-Xth Karachi West, whereby, his pre-arrest bail application was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court vide Order dated 23.12.2025.

2. The FIR was lodged on 25.09.2025 at 16:00 hours by the Complainant that his daughter, namely, Fatima aged about 17 years, went to drop her sister at Faizan-e-Ghous-e-Azam Madrassa, but failed to return. Upon private inquiry, the Complainant discovered that his daughter was kidnapped by Syed Muhammad Arman son of Muhammad Anwar for the purpose of marriage or Zina. The Complainant seeks the registration of a formal report and legal proceedings against the Applicant for the alleged abduction.

3. Learned Counsel for Applicant contended that the Applicant is innocent and has falsely been implicated in this case by Complainant with connivance of police; that according to medical of alleged abductee she is aged about 18 years; that the victim has contracted marriage with Applicant out of her own wish and freewill; that there is unexplained delay of one day in lodging of FIR; that there is no eye witness of the alleged

incident; that there is no specific role of Applicant; that the alleged abductee has also exonerated the present Applicant in her statement recorded under Section 164 Cr.P.C., before the Magistrate. Lastly, he prayed that Applicant has joined the investigation and is no more required for further investigation; therefore, he is entitled for confirmation of pre-arrest bail.

4. Conversely, learned ADPP has 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 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 may be dismissed.

5. I have heard learned Counsel for the Applicant as well as ADPP for the State and have perused the material available on 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 investigation has been completed and challan has already been submitted before the trial Court. 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 above, the Applicant has succeeded in making out a case for confirmation of interim pre-arrest bail. Accordingly, the ad-interim bail earlier granted to the Applicant vide Order dated 23.12.2025 is hereby confirmed on the same terms and conditions. The observations made hereinabove are purely tentative in nature, confined to the present bail proceedings, and shall not prejudice or affect the merits of the case at trial.

JUDGE

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