

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S- 282 of 2026

Applicant: Muhammad Irshad son of Muhammad Younis,
Arain through **Mr. Ahmed Mehran**, Advocate.

The State Through Mr. Mansoor Ahmed Shaikh, Deputy
Prosecutor General, Sindh.

Date of hearing & Order: 28-09-2026.

ORDER.

Suresh Kumar, J ---Applicant named above seeks post arrest bail in a case bearing crime No. 35/2026, offence u/s 377 PPC registered at Police Station Shaheed Murtaza Meerani.

2. The brief facts of the case, as depicted in the FIR, are as follows: Complainant Abdul Ghaffar lodged an FIR alleging that his son is employed as a servant at the stall of Irshad. On 31.01.2026, his son routinely went to the stall, while his other son went to meet his brother at the stall but did not return. Subsequently, the complainant, along with his brother-in-law Irshad Ali and his brother Muhammad Hashim, went to search for his son Abdul Qadir. They learned that his son had gone to the house of Irshad Ali. Upon arrival, they observed that the shalwar of Irshad was removed while the accused Irshad was committing zinna with his son. Thereafter, the accused fled the scene. The complainant then brought his son to the police station, obtained a letter for treatment, and subsequently lodged the FIR.

3. The applicant initially sought pre-arrest bail from the Court of the learned Additional Sessions Judge-IV Khairpur, which was dismissed via order dated 11.03.2026. Aggrieved by this dismissal, the applicant has approached this Court.

4. I have heard the learned counsel appearing on behalf of the applicant/accused and the learned Deputy Prosecutor General for the State.

5. Having given due consideration to the arguments advanced by the learned counsel appearing on behalf of the parties, I have perused the relevant record. From the perusal of the FIR, it reveals that the incident took place on 31.01.2026 at 1700 hours, while the FIR was registered on 01.02.2026 at 1600 hours. This indicates a delay of 23 hours, which has not been plausibly explained; therefore, consultation and deliberation cannot be ruled out. The learned counsel for the applicant contended that the doctor has opined that no act of sodomy was committed against the victim. A review of the medical certificate reveals that the doctor has opined that there is no conclusive medical or forensic evidence to support recent unnatural sexual intercourse/sodomy or to link the accused (Muhammad Irshad, son of Muhammad Yousif) to any such act in this case. Consequently, the case against the applicant/accused falls within the ambit of further inquiry. In similar circumstances, the Honourable Supreme Court, in the case of Abdul Ghaffar vs. State (2016 SCMR 1523), has held as follows:

“----S. 497(2)---Penal Code (XLV of 1860), S. 377---Sodomy---Bail, grant of---Further inquiry---Sample for DNA test was sent to the Forensic Science Agency---Doctor in his final opinion had opined that no act of sodomy was committed---Further the accused remained behind bars for about nine months---Case of the accused called for further inquiry in the light of the opinion of the doctor---High Court had fallen in error in setting aside the bail granting order passed by the Trial Court---Order passed by Trial Court granting bail to accused was restored accordingly.”

6. Similar view has been taken by Supreme Court in the cases of Muhammad Nauman Hanif vs. The State and another (2016 SCMR 1399). Further reliance placed on the case of Mohsin vs. The State and other

(2017 SCMR 290) and Sohail Akhter vs. The State through P.G Punjab and another (2022 SCMR 1447).

7. Moreover Investigating Officer has also recommended the present case to dispose of in 'C'. Applicant is behind bars since 01.02.2026 and case has not been concluded.

8. For the foregoing reasons, I am of the considered view that the applicant/accused has successfully made out a case for the grant of post-arrest bail, therefore, he is granted bail subject to furnishing solvent surety in the sum of Rs. 100,000/- (one lac) and PR bond in the like amount to the satisfaction of trial court.

9. The bail application is disposed of in the above terms.

J U D G E

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