

ORDER SHEET

IN THE HIGH COURT OF SINDH, AT KARACHI

Crl. Bail Application No.2655 of 2026
[Hayatullah son of Sameen Khan v The State]

Date	Order with signature of Judge
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For hearing of bail application.

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05.10.2026.

Mr. Saleem Nawaz Waziri, Advocate for the Applicant.
Mr. Ali Haider Saleem, Additional P.G. a/w complainant Rahim Zaib.

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Shamsuddin Abbasi, J.- Having been unsuccessful in securing bail from the learned trial Court in Crime No.565 of 2025 registered at Police Station SITE 'A', District Keamari, Karachi, for offences under Section 365-B and 34 PPC, the applicant has approached this Court seeking his release on bail.

2. Complainant Rahim Zaib is the father of alleged abductee, Javeria. He lodged FIR on 07.10.2025 alleging therein that on 04.10.2025 the applicant with help of his sister Sakina abducted his daughter with intention to commit zina and /or compelling her to contract marriage.

3. During investigation the police recovered the abductee and produced before the learned Magistrate for recording her statement under Section 164, Cr.P.C. wherein she has supported the prosecution case to the extent of her alleged abduction, however, admitted that her Nikah was performed with the applicant, though according to her, the same was contracted under threats and duress.

4. Learned counsel for the applicant has placed on record attested true copies of Nikahnama, available at page 29, as well as affidavit of the alleged abductee, available at page 35, and contended that the applicant has been falsely implicated by the complainant owing to ulterior motives. It is next submitted that the material available on record particularly the admitted age of the alleged abductee and the admitted factum of Nikah renders the case one of further inquiry within the meaning of Section 497(2), Cr.P.C.

5. Conversely, learned APG, assisted by the complainant who is present in person, has opposed the grant of bail on the ground that the applicant is nominated in the FIR and that the allegation relates to a serious and heinous offence, therefore, the applicant deserves no leniency.

6. Heard learned counsel for the applicant, learned APG, assisted by the complainant, and perused the material available on record with their able assistance.

7. At the outset, it is significant to note that the learned Magistrate while recording the statement of abductee under Section 164, Cr.P.C. has recorded her age as 19 years, thus at least at this tentative stage she cannot be treated as a minor. Equally significant is the fact that she has herself admitted the performance of Nikah with the applicant. The attested copy of the Nikahnama placed on record lends support to the applicant's contention regarding the subsistence of a matrimonial relationship between the parties. The legal effect, validity and circumstances surrounding such Nikah are matters to be determined by the learned trial Court after recording evidence and cannot be conclusively adjudicated upon at the stage of bail. The statement under Section 164, Cr.P.C. does not furnish an unqualified account of forcible abduction inasmuch as while alleging that the Nikah was performed under threats, the alleged abductee has nevertheless admitted its performance. Whether such Nikah was voluntary or was the result of coercion, intimidation or any other unlawful pressure is a matter requiring appreciation of evidence at trial. At this stage, the material on record gives rise to a reasonable doubt requiring further inquiry into the precise circumstances in which the alleged occurrence took place and the subsequent Nikah was solemnized. It is also relevant that the alleged abductee has already been recovered and her statement under Section 164, Cr.P.C. has been recorded. The investigation has culminated in submission of the challan and, therefore, the applicant is no longer required for any further investigation and his confinement in the prison would serve no useful purpose. It is a settled principle that at the stage of bail the Court is not required to undertake a deeper appreciation of evidence or conduct a tentative trial. The Court is only required to examine whether the material available on record brings the case within the prohibitory clause of Section 497(1), Cr.P.C. or whether reasonable grounds exist for believing that the case of the accused requires further probe within the meaning of Section 497(2), Cr.P.C. Mere fact that the applicant is nominated in the FIR or that

the allegation is of a serious nature, by itself, is not sufficient to decline bail where the attending circumstances otherwise make out a case of further inquiry.

8. For the foregoing reasons, I am of the view that the applicant has been able to make out a case for grant of bail. Accordingly, this bail application is allowed. The applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs.50,000/- and P.R. bond in the like amount to the satisfaction of the learned trial Court. Needless to observe that the observations made hereinabove are purely tentative in nature, confined strictly to the determination of the present bail application and shall not prejudice or influence the learned trial Court in any manner while deciding the case of the applicant on own merits.

JUDGE

Naeem/PA