

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Criminal Bail Application No.2441 of 2023

---

Date	Order with signature of Judge
------	-------------------------------

---

For hearing of bail application

**15.11.2023**

Mr. Muddasir Khan Abbasi advocate for the applicant  
Nemo for complainant  
Mr. Muntazir Mehdi, Additional PG

-----

Through this bail application under Section 497 Cr.P.C., the applicant Muhammad Yousuf has sought admission to post-arrest bail in F.I.R No.477/2022, registered under Section 376/496-A 337-A(ii) PPC at Police Station Saeedabad Karachi. His earlier bail plea has been rejected by the trial court vide order dated 26.9.2023 on the premise that there are reasonable grounds to believe that the applicant/accused has committed an alleged offense and prosecution has collected sufficient material to connect the applicant with the alleged crime.

2. The allegation against the applicant is that on 29.8.2022, he committed rape with Mst Nargis daughter of Mst. Bilqees/complainant, and also assaulted the minor daughter of Mst. Nargis, such a report of the incident was given to police on 18.9.2022, who registered F.I.R under Section 496-A PPC, 376,337A(I) and 34 PPC.

3. Mr. Muddasir Khan Abbasi learned counsel for the applicant has argued that the applicant/accused is innocent and has falsely been implicated in this case. He further argued that there is 20 days delay in lodging of FIR and such delay is not explained, that there are so many contradictions in the contents of FIR and statement under Section 164 Cr PC, that in her statement she clearly stated that she remained in the house up to her recovery and during such period she used to visit the house of neighbors, which means that she was residing there with her consent, that she herself deposed that she herself left the house as per her own free will and wish; that no statement of daughter of the victim was recorded by police; that DNA is not definite as according to DNA report that accused cannot be excluded which means that DNA is not definite, that there is no evidence against the applicant/accused, police has failed to associate any private witness in spite of their presence at the place of the alleged incident, the alleged abductee has not named the present applicant/accused in her statement under Section 164 Cr. P.C. and it is further contended that

the matter is required for further inquiry; according to WMLO no mark of violence was found on her body or private parts which shows that no rape was committed.

4. Mr. Muntazir Mehdi Additional PG vehemently opposed the grant of bail to the applicant/accused and contended that there was sufficient evidence available on record that connected him with the commission of the alleged offense.

5. I have heard the learned counsel for the parties and perused the record with their assistance.

6. The tentative assessment of the record reveals as under:-

- i) **The accusation against the applicant is that on 29.8.2022, he committed rape with Mst Nargis daughter of Mst. Bilqees/complainant, and also assaulted the minor daughter of Mst Nargis, such a report of the incident was given to police on 18.9.2022, who registered F.I.R under section 496-A PPC, 376,337A (I) and 34 PPC after 20 days of her alleged recovery of Mst Nargis from the house of applicant.**
- ii) **The Statement of Mst Nargis was recorded under section 164 Cr. P.C., in which she narrated the story.**
- iii) **The interrogation report of the applicant shows that the victim girl had voluntarily resided in the house of the applicant along with his family members and there was no alleged assault or rape issue on the part of the applicant.**
- iv) **As per F.I.R., the applicant was brought to the police station by the mother of the victim girl.**
- v) **Her medical examination was conducted and police also obtained a DNA report which was concluded as under:-**

*“the DNA profile obtained from the sperm fraction of vaginal swab of Nargis w/o Murad (item#1) is a mixture of atleast two individual . Narigis w/o Murad (item# VI) and Muhammad Yousif s/o Muhammad Ibrahim (Item#SI) cannot be excluded as the possible contributors to the mixed DNA sample obtained from sperm fraction of item”*

7. From the perusal of the record it appears that the allegations against the applicant/accused are that he with the help of his wife kidnapped the complainant's daughter Nargis, committed her rape and he also assaulted her daughter-in-law Zunaira and kept them in the house situated at Sabri Masjid, Dawood Goth, Saeedabad, Karachi where the above named accused committed her rape and also tortured the granddaughter of complainant. The applicant is nominated in the FIR and alleged abductees were recovered from the house of the applicant. The alleged victim Nargis was medically examined by the WMLO who found fresh bleeding in the private parts of the victim and vaginal swabs of the

victim were also secured while the applicant was also examined by the MLO who also secured blood samples of the applicant such samples were sent for DNA analysis and seminal material were found in the vaginal swabs of the victim which were matched with the blood samples of accused which prima facie shows that applicant has committed sexual intercourse with the victim Nargis. Additionally in the statement recorded under section 164 Cr PC the victim also fully implicated the above-named accused with the allegations that he committed her rape multiple times. Besides the the offence entails capital punishment, as the trial Court has to see all the aspects of the case by recording the statement of victim lady.

8. Prima facie, sufficient material/evidence has been collected against the applicant/accused to connect him in the case. Therefore, no case for grant of post-arrest bail to the applicant/accused is made out.

9. In view of the above, the bail application is dismissed. However, the trial Court is directed to examine victim Mst. Nargis within one month and if the charge has not been framed, the same shall be framed on the next date of hearing and if the evidence comes in favor of the applicant, he may repeat his bail application before the trial court which shall be decided on merits without being influenced by the observation of this Court which is even otherwise tentative, compliance shall be made positively without fail.

JUDGE

Shahzad/\*