

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

Criminal Bail Application No.S-1364 of 2024

**DATE**

**ORDER WITH SIGNATURE OF JUDGE**

**20.01.2025**

Applicant is present on bail.

Mr. Naseer A. Narejo, Advocate for applicant.

Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.

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**O R D E R**

**AMJAD ALI SAHITO, J:-** Through this bail application, the applicant is seeking confirmation of his pre-arrest bail in Crime No.324 of 2024, for offence under sections 377-B, 324, 337-L(ii), 504, 147, 148 & 149 P.P.C, registered at P.S. A-Section Dadu. Earlier bail plea of applicant was declined by the learned Additional Sessions Judge-IV, Dadu vide impugned order dated 08.11.2024.

2. The facts of the case are already mentioned in the F.I.R and memo of bail application, hence need not to reproduce the same hereunder.

3. Per learned counsel for applicant, FIR is delayed about 2 months and 25 days no plausible explanation has been furnished by the complainant in fact if any role which is against co-accused Shakeel and no specific role assigned to present applicant in the commission of alleged offence but due to dispute he has been falsely implicated in this case otherwise the applicant / accuses is innocent. Lastly prayed for confirmation of bail.

4. Mr. Ghulam Murtaza Soomro, Advocate files Vakalatnama on behalf of complainant taken on record. He alongside learned APG vehemently opposed the confirmation of bail by stating that delay in registration of the FIR has been properly explained by the complainant and so far as the injury attributed to accused, in this regard, final medico-legal certificate is available wherein nature of injury has been declared by the doctor under section 337-L(ii) PPC, as such, the applicant / accused is not entitled for confirmation of bail.

5. Heard learned counsel for the respective parties and perused the record.

6. From perusal of record it reflects that the name of applicant / accused Shuaib Ali @ Sonu is appeared in the FIR with specific role that about five months ago from the date of present incident, son of the complainant namely Sahil, aged about 15/16 years was taken away by co-accused Shakeel with Shuaib Ali (present applicant) on their motorcycle and thereafter they committed sodomy with him. After committing sodomy, the victim appeared at his house and informed to the complainant, got treatment letter as well as MLC and then tried to register FIR but Nekkards restrained complainant that they will make *faisla* which was held wherein Nekkards fined accused party with lac which they

did not obey such *Faisla*, as such, delay in registration of FIR is properly explained by the complainant. The injured Rehan (son of complainant) while recording his statement under section 161 Cr.P.C has implicated the applicant / accused in the commission of offence. At bail stage only tentative assessment is to be made and nothing has been brought on record to show any ill-will or malafide on the part of the complainant which is requirement for grant of pre-arrest bail. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”

7. In view of above discussions, the applicant/accused failed to make out good case for confirmation of his bail. Consequently, the bail application is **dismissed** and interim pre-arrest bail earlier granted to the applicant/accused vide order dated 19.12.2024 is hereby **re-called**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and same would prejudice the case of either party at trial.

JUDGE

Muhammed Danish\*

8. wherein wakeel ka argument me however since the appellant No.\_\_\_\_ is retired Government employee as such if no impact is made on his pension, the ingredients of 337-N(2)

9. Observation wali para the outcome of this judgment will not affect the pensionary benefit of appellant Manzoor Ali