

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Bail Application No.90 of 2025

Order with signature of Judge(s)

- For hearing of bail application

20.02.2025

Mr. Imran Khan, Advocate for the Applicant
Mr. Mumtaz Ali Shah, APG alongwith Laasi Kaneez Fatima

Mr. Sajad Hussain, Advocate has filed Vakalatnama on behalf of the Complainant, which is taken on record.

2. The instant bail application has been moved by Muhammad Maroof, arrested in a case registered vide FIR No.446/2024 on 03.12.2024, under sections 376iii PPC at Police Station Tipu Sultan. He seeks his post arrest bail as his bail application was dismissed by the learned Additional Sessions Judge-III, Karachi South vide order dated 17.12.2024.

3. Allegation against the applicant/accused as per FIR is that he having a toy shop took 11 years minor with mental disability (daughter of the complainant) to his house and attempted to commit Zina and molested the minor.

4. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in this case due to enmity as no such incident took place and 164 Cr.PC statement of the victim has not been recorded. He further contended that the FIR has been lodged with unexplained three days delay. He added that the complainant has no objection for grant of bail to the applicant, which fact has been endorsed by Mr. Sajjad Hussain, Advocate for the complainant.

5. On the other hand, learned APG has opposed grant of bail *inter alia* on the ground that the offence is non-compoundable therefore no-objection cannot justify to admit the applicant on bail.

6. I have heard arguments of learned counsel for the applicant and the learned APG for the State as well as learned counsel for the complainant and perused the record.

7. Record shows that the complainant in his 154 Cr.PC statement has directly nominated the applicant in this case and applicant/accused has not only named, but has been comprehensively described with specific role and three days delay does not entitle the applicant for grant of bail in a case where victim is a minor with mental or physical disability. Owing to some anguish and shock, some time is consumed in lodging FIR, therefore, it cannot be considered fatal for prosecution case as it has been held in the case of *Muhammad Ashraf v. Tahir alias Billoo (2005 SCMR 383)* and *Mst. Shamim Akhtar v. Faiz Akhtar (PLD 1992 SC 211)*. As far as the no-objection by the complainant is concerned, it is well settled principle in criminal law that such affidavits have no legal weight in non-compoundable offences, as these offences are considered crimes against the society as a whole and cannot be resolved through private settlement. The mere fact that the victim has not been examined, does not appear to be a worth consideration ground for the grant of bail. In such circumstances, reasonable grounds exist which tentatively connect the applicant/accused with the commission of the offence in hand.

8. In view of the above, the instant bail petition is dismissed. The observations recorded hereinabove are purely tentative in nature and should, in no way, prejudice an independent mind of the learned trial Court during the course of trial.

JUDGE