

## **IN THE HIGH COURT OF SINDH AT KARACHI**

### Criminal Bail Application No.669 of 2025

Applicant : Mashooque Ali S/o Noor Muhammad  
through Mr. Shaukat Ali Pathan, Advocate

Complainant : Abdul Latif S/o Ibrahim  
through Mr. Zainul Abideen, Advocate

Respondent : The State  
through Ms. Rahat Ahsan, Addl. P.G.,  
Sindh a/w SIP Allah Rakhio

Date of hearing : 18.03.2025

Date of order : 18.03.2025

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.11/2025 for the offence under Section 376, 376-B, 329, 34 PPC registered at PS Jati, District Sujawal, after his bail plea has been declined by the learned Additional Sessions Judge-I, Sujawal vide order dated 08.03.2025.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case; that FIR is delayed about 05 days, for which no plausible explanation has been furnished; that in fact the complainant party has occupied agriculture land of the applicant and in order to create pressure upon them, they filed the instant FIR, otherwise he is innocent; that report of the DNA is negative, hence, the applicant is entitled for concession of bail.

4. On the other hand, Mr. Zainul Abideen, Advocate has shown his appearance and undertakes that he would file Vakalatnama on behalf of the complainant in the office. However, he opposed for grant of bail so also learned Addl. P.G. She submits that victim is a dumb lady, as such, her statement could not be recorded;

however, she has identified one of the accused in the commission of offence.

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that the allegation against the applicant is that he has committed rape with the victim Mst. Shahida, who is a dumb lady and subsequently, she became pregnant and thereafter, due to severe abdominal pain, she was taken to Civil Hospital, she suffered a miscarriage and delivered a stillborn baby. Due to this incident, mohalla people gathered there, she/victim identified in the presence of mohalla people accused namely Musharaf Sharif, Suleman Bhutto and Muhammad. The girl identified the present applicant as one of the accused who committed rape with her and on her pointation, he has been booked in this case. Further, the offence in which the applicant has been charged falls within the prohibitory clause of Section 497 Cr.P.C. whereas minimum punishment provided by law under Section 376-B PPC is imprisonment for a term of 25 years and maximum is death. Sufficient material is available on record which connects the applicant with the commission of offence. Learned counsel for the applicant also failed to plead malafide on the part of complainant. At bail stage, only tentative assessment is to be made.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others' [2019 SCMR 1129]**. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant 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 the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 13.03.2025 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA