

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.1929 of 2024

Applicant : Zubair @ Muhammad Ahsan  
through Mr. Azeem Oad Advocate

Respondent : The State  
through Ms. Rubina Qadir, Additional P.G.  
Sindh.

Date of short order : 24.03.2025

Date of reasons : 03.04.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – The applicant, Zubair alias Muhammad Ahsan seeks post-arrest bail in case bearing crime No. 107/2024, offence u/s 377-B/34 PPC of P.S Nabi Bux, Karachi. His previous plea for bail was declined by the learned Additional Sessions Judge-III, Karachi South, vide order dated 11.07.2024.

2. According to the prosecution, on 30.05.2024, at about 09:15 p.m., the complainant went downstairs and found his nephew, Syed Murtajis along with another child Sajjad Hussain, both aged about 9 years from Flat No.608, appearing visibly distressed. They recounted that the previous night; they had visited a cattle farm on a plot near Yasin Square to see the goats. A security guard informed them that the owner would arrive the following day at 2:00 p.m. and asked them to return then. When the children returned on 30.05.2024 at around 01:00 p.m., the security guard and another person responsible for tending the goats took them to a room, subjected them to sexual abuse, and confined them for 10 minutes. One of the perpetrators allegedly took a photograph of Murtajis and inappropriately touched them. Upon learning of the incident, the complainant called the 15 Helpline. A police mobile from P.S Nabi Bux responded, and based on the children's identification, the security guard, Ali Gul, along with the applicant, was arrested. Consequent upon; case was registered inter-alia on above facts.

3. Learned counsel argued that the applicant is innocent and has been falsely implicated in the case due to mala fide intentions and ulterior motives stemming from a dispute over the cattle farm located in a residential area between the complainant and the owner of the farm. Apart from the solitary statement of the complainant, no eyewitness has corroborated the assertions made in the FIR. There was also an unexplained delay of eight hours in lodging the FIR. Moreover, no act of sexual assault has been alleged against the applicant except inappropriate touching, and no medical evidence or pictures have been placed on record to support the prosecution's allegations. Therefore, he prayed for bail.

4. The learned APG recorded objections, contending that the victims, in their statements under Section 164 Cr.P.C., have supported the prosecution's version of events on material particulars. However, she reluctantly conceded that no medical, forensic, or photographic evidence has been presented to corroborate the prosecution's case.

5. According to the prosecution's account, a day prior to the incident, the applicant and co-accused advised the victims to return later. When the boys revisited the place on the day of the occurrence, they were taken to a room, but the record remains silent on any sexual assault other than inappropriate touching allegedly committed by the applicant. It was also alleged that the accused took pictures of the victims while touching them inappropriately, but no such evidence was found on record, despite the Investigating Officer's assertion that a mobile phone was recovered from the applicant. Upon specific inquiry, the I.O. admitted that no such material was found on the recovered mobile phones and speculated that the applicant might have deleted it. However, the mobile phone was not sent for FSL analysis to retrieve any deleted material. Additionally, the unexplained delay of eight hours in lodging the FIR weakens the prosecution's case. The applicant has been behind bars since his arrest on 30.05.2024, and according to the learned counsel, he was a low-paid servant and the sole breadwinner for his family. No previous record suggesting the applicant's involvement in similar crimes has been presented. The case has already been challaned, and the applicant is no longer required for investigation. Since every accused is presumed innocent until proven guilty, the applicant's case, in my humble view, falls under the purview of further inquiry, as contemplated by Section 497(II), Cr.P.C.

6. These are the detailed reasons for the short order passed by me on 24.03.2025, whereby the instant bail application was allowed, and the applicant was directed to be released on bail upon furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand only) and a P.R. Bond in the like amount to the satisfaction of the learned trial Court.

7. The above observations are tentative in nature and shall not prejudice the case of either party at trial.

**J U D G E**

Shahbaz/PA