

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS.**

Criminal Bail Application No.S-163 of 2025

Applicant: Rajab s/o Sher Muhammad
through Mr. Abdul Hafeez Mari,
Advocate.

Respondent: The State through Mr. Neel Parkash,
Deputy Prosecutor General, Sindh.

Complainant: Mst Hoori (present in person)
through Mr. Hassan Mal Bheel,
Advocate.

Date of hearing: **09.09.2025**

Date of Order: **09.09.2025**

O R D E R.

AMJAD ALI SAHITO, J:- Through this bail application, the applicant/accused named above seeks his pre-arrest bail in Crime No.16 of 2025, under sections 376, 506(ii), 34 P.P.C R/w 3(2) TIP Act 2018, registered at P.S Naukot, after his bail plea was declined by the learned Additional Sessions Judge-II, Mirpurkhas.

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

3. Learned counsel for the applicant/accused has contended that the applicant is innocent and has been falsely implicated in the instant case with mala fide intent. It is submitted that the FIR was lodged after an unexplained and inordinate delay of seven months, which casts serious doubt on the veracity of the allegations. Learned counsel further submits that there is contradiction with the contents of FIR and 22A&B Cr.P.C. It is further submitted that the

applicant/accused is entitled to the concession of pre-arrest bail.

4. On the other hand, learned counsel for the complainant and learned Deputy Prosecutor General have vehemently opposed for confirmation of pre-arrest bail and prayed for its dismissal.

5. Heard and perused.

6. From the perusal of the record, it transpires that the complainant's daughter, Mst. Sameena, informed her mother that she was experiencing abdominal pain, upon which she was taken to the clinic of Dr. Yasmeen, where an ultrasound examination was conducted. During the said examination, the complainant, being the mother of the victim, came to know that her unmarried daughter was twenty-four weeks pregnant.

7. Upon inquiry, the victim Mst. Sameena disclosed that the accused persons, namely Rajab (the present applicant), Saleem, and Ameen, had approached her at the agricultural land, where accused Rajab forcibly held her arm, took her inside the cotton crop field, and committed rape with her. It further appears from the record that during the pendency of the instant bail application, the victim, Mst. Sameena, delivered a baby. The statement of the victim was recorded before the I.O. of the case, wherein she fully corroborated the version of the complainant and categorically stated that the accused persons had committed forcible rape upon her, as a consequence of which she became pregnant and subsequently gave birth to a child.

8. The offence with which the applicant stands charged fall within the prohibitory clause of Section 497 Cr.P.C Furthermore, no ill-will or malafide is alleged against the complainant party by the applicant

even otherwise he has shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakis [2019 S CMR 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."

9. At bail stage, only tentative assessment is to be made. Sufficient material is available on the record to connect the applicant with the commission of alleged offence. From the contents of the FIR, it is apparent that the alleged offence is of a heinous nature where the applicant/accused committed Zina-bil-Jabbar.

10. The learned counsel for the applicant has failed to establish the case to the extent of the applicant/accused warranting the confirmation of interim pre-arrest bail. Accordingly, the interim bail already granted to the applicant/accused is hereby **dismissed**. The interim bail granted to the applicant/accused vide order dated **18.06.2025** is hereby **recalled**.

11. However, subsequent to the grant of pre-arrest bail, the applicant/accused absconded and remained fugitive from law. Consequently, directions were issued to the Senior Superintendent of Police, Mirpurkhas, to ensure his production before this Court. In compliance with the aforesaid directions, the police produced the accused before this Court. Accordingly, the accused was

taken into custody and handed over to the Investigating Officer (I.O.) for the purpose of further investigation, with a further direction to produce him before the learned Magistrate concerned for obtaining remand in accordance with law.

12. 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 applicants on merits.

JUDGE

Adnan Ashraf Nizamani