

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2878 of 2025

Applicant : Dad Muhammad, through Mr. Kamran Ali,
Advocates

Respondent : The State, through Mr. Muhammad
Noonari, D.P.G.

Date of Hearing : 06.11.2025

Date of Order : 06.11.2025

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ORDER

TASNEEM SULTANA, J: Through this criminal bail application, the applicant seeks post-arrest bail in crime No.312/2025 under Section 364-A PPC read with Sections 3 and 4 of the Trafficking in Persons Act, 2018 registered at Police Station Mochko. Earlier his bail plea was declined by the learned Additional Sessions Judge-Xth Karachi West vide order dated 30.07.2025.

2. Brief facts of the prosecution case are that on 17.07.2025 at about 8:00 a.m., the complainant's daughter Maryam, aged about fifteen years, left home for school but did not return. Upon enquiry, it transpired that she had not attended school that day. After fruitless search, the complainant suspected his cousin's son, the present applicant, of having enticed away his daughter with intent to commit rape, forced marriage or forced labour. Consequently, the present FIR was registered under Section 364-A PPC read with Sections 3 and 4 of the Trafficking in Persons Act, 2018.

3. Learned counsel for the applicant has contended that the applicant has been falsely implicated due to family discord; that the alleged abductee has herself appeared before the learned Magistrate and in her statement under Section 164 Cr.P.C. categorically denied abduction or coercion and affirmed that she had contracted marriage with the applicant out of her own volition; that subsequently the complainant has also submitted an affidavit of no-objection acknowledging the marriage and resolving the matter amicably; that the record does not disclose any element of forced labour or commercial sex to attract the provisions of the TIP Act, 2018; that the facts do not satisfy the essential ingredients of Section 364-A PPC; that the investigation stands completed, the challan has been

submitted, and the applicant's continued detention would serve no fruitful purpose. Learned counsel, therefore, urges that the case squarely falls within the ambit of further inquiry and the applicant merits the concession of bail.

4. Conversely, learned ADPP opposes the grant of bail on the ground that the alleged abductee is a minor of fifteen years and that her purported marriage contravenes the Sindh Child Marriage Restraint Act, 2013; however, he does not dispute the existence of the statement under Section 164 Cr.P.C. or the affidavit of no-objection submitted by the complainant.

5. Heard. Record perused.

6. Upon tentative assessment, it appears that the FIR rests merely on suspicion without any direct evidence of abduction. The alleged victim, in her statement recorded under Section 164 Cr.P.C. before the learned Magistrate, unequivocally declared that she was not kidnapped or compelled and that she had entered into Nikah with the applicant of her own free will. The said statement, being duly certified by the learned Magistrate, carries significant probative value at this stage. The complainant's affidavit of no-objection further neutralizes the allegation of coercion and reflects that the dispute is essentially domestic in nature arising from within the family circle.

7. The ingredients of Section 364-A PPC kidnapping of a person under fourteen years for specified unlawful purposes are prima facie do not attract when the alleged victim is shown to be fifteen years old. Likewise, the provisions of Sections 3 and 4 of the Trafficking in Persons Act, 2018 relate to compelled labour or commercial sexual exploitation, which are altogether absent in the present case. Whether these provisions are ultimately applicable is a question to be determined after recording of evidence; at this stage, only a tentative view is permissible and deeper appreciation of evidence is deprecated. The applicant has remained in custody; the investigation has been completed; and no material has been shown suggesting likelihood of absconding or tampering with the prosecution evidence. The cumulative effect of these circumstances brings the case within the purview of further inquiry as envisaged under Section 497(2) Cr.P.C. When the case calls for further inquiry into guilt of accused within the meaning of Section 497(2) Cr.P.C., the accused is entitled to bail

as of right. Reliance is placed on the case of *Salman Mushtaq & others v. The State through P.G Punjab and another* (2024 SCMR 14).

6.While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....

8. Accordingly, the instant bail application is allowed. The applicant **Daad Muhammad @ Meer Ahmed Khan** is admitted to **post-arrest bail**, subject to his furnishing solvent surety in the sum of **Rs. 100,000/- (Rupees one lakh only)** and a personal bond in the like amount to the satisfaction of the trial Court.

9. The observations made herein are purely tentative, confined to the disposal of this bail application, and shall not prejudice the trial or merits of the case.

JUDGE

Ayaz Gul