

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-805 of 2025

Applicants : 1. Nadir Ali son of Sarwar Hussain
(Nadir s/o Ghulam Sarwar as in FIR)
2. Tahir Ali son of Sarwar Hussain
(Tahir s/o Ghulam Sarwar as in FIR)
Both by caste Kubar
Through Mr. Allah Dino Kubar, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 13.11.2025
Date of order : 13.11.2025

ORDER

KHALID HUSSAIN SHAHANI, J.- The applicants, Nadir Ali and Tahir Ali, seek pre-arrest bail in a case bearing crime No.32 of 2025, involving in offences under Sections 365-B, 363, 148, and 149 PPC, registered at PS Setharja, District Khairpur. Their earlier bail application was refused by the learned Additional Sessions Judge-IV, Khairpur, on 30.04.2025.

2. The complainant alleges that on the night of 20.03.2025, armed men entered his residence and forcibly abducted his wife and their infant daughter at gunpoint. It is significant to note, however, that although multiple adult family members were present, no complaint was lodged with the police or local elders until two days later, showing an unexplained delay of 42 hours before the FIR was registered. Such a delay raises serious doubts concerning the immediacy and authenticity of the prosecution's claims and suggests the possibility of afterthought or ulterior motives.

3. The counsel for the applicants highlights glaring contradictions between the statements recorded under Section 161 Cr.P.C and the victim's own statement recorded under Section 164 Cr.P.C. While witnesses' statements describe one version of events, the victim recounts a divergent timeline and circumstances and expressly states that she voluntarily contracted marriage (*Nikah*) with the co-accused Fayyaz Hussain. Importantly, the victim's free-will marriage affidavit executed contemporaneously denies any threats or coercion by the present applicants and attributes any fear to her relatives. These conflicting accounts raise a substantial prima facie doubt regarding the commission of the alleged offence by the applicants. Moreover, the prosecution's case suffers from the considerable delay in reporting and the inherently interested status of all prosecution witnesses, heightening the necessity for cautious appraisal at the bail stage. The learned counsel also submits that co-accused persons with identical

allegations have been granted pre-arrest bail, invoking the principle of consistency.

4. The learned DPG for the State does not dispute the parity of situation between the applicants and the co-accused already granted bail.

5. Upon careful examination of the record and submissions, this Court finds the victim's Section 164 statement materially inconsistent with the prosecution's case, notably her affirmation of voluntary marriage and absence of coercion. The irreconcilable discrepancies between the Section 161 and Section 164 statements cast a shadow of doubt so fundamental that it cannot be overlooked at this preliminary bail juncture. The unexplained delay in lodging the FIR weakens the prosecution's narrative further. In light of the rule of consistency underscored in *Muhammad Shafiq v. The State* (2016 SCMR 920), where similarly placed co-accused have been granted bail, the applicants are equally entitled to benefit from this precedent unless compelling material distinguishes their case.

6. The record reveals no misuse of the concession of interim bail by the applicants, and since the investigation has been concluded and the charge-sheet submitted, there is no justification to withhold bail.

7. Consequently, the interim bail granted to the applicants is hereby confirmed on the same terms and conditions.

8. It is, however, reiterated that the observations made herein are tentative and shall not prejudice the trial or any party's case.

J U D G E