

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3184 of 2025

Applicants : i) Eric @ Sagar S/o Tariq
ii) Harry S/o Tariq
through Mr. Muhammad Akbar,
Advocate

Respondent : The State
Through Ms. Rubina Qadir, Addl. P.G.
alongwith SIP/I.O. Nadeem Durrani

Date of hearing : 04.02.2026

Date of order : 04.02.2026

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.999/2025 for the offence under Sections 377/506 PPC registered at PS Zaman Town, after his bail plea has been declined by the learned Additional Sessions Judge-VII/Special GBV Court, Karachi East vide order dated 16.09.2025.

2. The details and particulars of the FIR are already available in the bail application as well as memo of FIR, therefore, the same need not to be reproduced.

3. Learned counsel for the applicants submits that the applicants are innocent and have falsely been implicated in this case; that both the applicants are minor having aged about 15 and 17 years; that FIR is delayed about 21 days, for which no plausible explanation has been furnished; that all the prosecution witnesses are close blood relatives of the victim despite the place of incident is a densely populated and busy area; that no independent or private witness has been associated or cited by the prosecution, as such, testimony of the said witnesses lacks independent corroboration and, therefore, cannot be treated as wholly reliable; that the applicants are attending the Court and have not misused concession of bail. Lastly, he prays for confirmation of bail.

4. On the other hand, learned Addl. P.G. has fully supported the impugned order and opposed for confirmation of bail.

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that complainant Azam Masih lodged the FIR stating therein that his son aged about 10 years took away by both the accused persons and committed sodomy with him. He further stated that his wife disclosed to him that some children of the locality have disclosed to her that Herry and Sagar alongwith one unknown person are committing bad acts with her son; as such, she inquired from her son who said that accused persons used to commit sodomy with him at different times and on his refusal, they used to threaten him for murder. Further, I.O. is present and states that after registration of the FIR, 161 Cr.P.C. statement of the victim namely Mathempal Azam was recorded wherein he has fully supported the version of the complainant. Subsequently, his 164 Cr.P.C. was also recorded wherein he has implicated the present applicants in the commission of offence.

7. As regards the delay in the registration of the FIR, the victim has explained that the applicants had threatened him for murder, which created fear and prevented him from immediately disclosing the incident to his family. Thereafter, when some children informed the victim's mother, she maintained vigilance and eventually observed the applicants engaging in the alleged acts with the victim. In these circumstances, the delay in lodging the FIR is adequately justified. Further, learned counsel for the applicants has failed to point out any enmity or ill-will on the part of complainant. At bail stage, only tentative assessment is to be made and deeper appreciation is not permissible. The version of the complainant is fully supported by the victim.

8. 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.

9. In view of the above, learned counsel for the applicants has failed to make out a case for grant of bail in view of subsection 2 of Section 497 Cr.P.C. Resultantly, the instant bail application is **dismissed**. The interim pre-arrest bail granted to the applicants/accused vide order dated 18.11.2025 is hereby recalled.

10. 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/accused on merits.

JUDGE

Kamran/PA