

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2517 of 2025

Applicant : Samroon @ Samee son of Yaqoob Masih through Makhdoom Syed Tahir Abbas, Advocate.

Complainant : Sumaira Bibi through Mr. Muhammad Ayub Awan, Advocate.

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

Date of Hearing : 09.02.2026.

Date of Order : 09.02.2026.

ORDER

TASNEEM SULTANA, J.— Through this criminal bail application, the applicant namely Samroon @ Sameer S/o Yaqoob Masih seeks post-arrest bail in Crime No. 493 of 2024, registered at Police Station Malir Cantt., Karachi, for offence punishable under Section 376 P.P.C. Earlier, the applicant approached the learned Vth Additional Sessions Judge, Malir, Karachi, for the same relief; however, his post-arrest bail application was dismissed vide order dated 13-06-2025. Hence, the instant bail application for the same concession.

2. Brief facts of the prosecution case, are that the complainant stated that she is working at Patel Hospital; she has two daughters and one son; her daughter namely Nisha, aged about 15 years, went out of the house on 05-12-2025 at about 1430 hours to purchase grocery items; when she did not return for a long time, the complainant started searching her in the houses of relatives and known persons; at about 1900 hours, accused Samroon @ Sameer brought the victim on his motorcycle, whereupon the victim started crying and disclosed that the accused had taken her from shop to his house situated at House No. E-412, Street No. 1/12, Baloch Chowk, Bhittai Abad, and at about 1700 hours committed rape with her after forcibly removing her clothes and threatened her not to disclose the incident; thereafter, the complainant along with her husband and son-in-law apprehended the accused, called Madadgar-15 and produced him before police, whereafter the instant crime was registered.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated due to mala fide and previous enmity; that the prosecution case rests upon the interested testimony of the complainant party without independent corroboration; that no eyewitness of the alleged occurrence has been cited; that medical examination does not conclusively establish fresh violent sexual intercourse and no injury marks suggestive of resistance were noted; that toxicological analysis is negative and no incriminating recovery has been secured from the applicant; and that the case calls for deeper appreciation of evidence and at best falls within the ambit of further inquiry entitling the applicant to concession of bail.

4. Conversely, learned Deputy Prosecutor General assisted by learned counsel for the complainant opposes the application and contends that the applicant is specifically nominated in the FIR with a direct role; that the victim is minor; that her statements recorded under Sections 161 and 164 Cr.P.C consistently implicate the applicant; that the statement recorded before the Magistrate carries presumptive evidentiary value at bail stage; that medico-legal examination was conducted and forensic material was secured during investigation; and that the accusation, being supported by prima facie incriminating material, squarely falls within the prohibitory clause of Section 497 Cr.P.C, thus disentitling the applicant from concession of bail.

5. Heard. Record perused.

6. Tentative assessment of the material available on record reflects that the victim is stated to be a minor and the applicant stands specifically nominated in the FIR with a direct role attributed to him. The victim, in her statements recorded under Sections 161 and 164 Cr.P.C, has consistently implicated the applicant in the commission of the alleged offence, the latter carrying presumptive evidentiary value at bail stage. The investigation record further discloses that the victim was subjected to medico-legal examination and forensic samples were secured; the medical material, read in conjunction with the forensic analysis carried out during investigation, prima facie lends corroboration to the prosecution version and provides biological linkage connecting the applicant with the alleged occurrence. Without entering deeper appreciation of evidence, the material presently available on record prima facie furnishes reasonable grounds to believe that the applicant is involved in the commission of an offence punishable with imprisonment for life, thus squarely attracting the prohibitory clause of Section 497 Cr.P.C

7. It is by now well-settled that in an offence of rape, the statement of the victim alone, if found confidence-inspiring, is sufficient to prima facie connect the accused with the commission of the alleged offence. Reliance in this regard is placed upon the case law reported as **2020 S.C.M.R. 2053**, which is reproduced as under: -

“He lived in the neighbourhood and apparently neither the prosecutrix nor her husband, an electrician, who managed a 3 shop, usually throughout the day, had an axe to grind at the cost of their family honour. Investigative conclusions vindicate stance taken by the prosecutrix whose statement coupled with the attending circumstances of the case constitute reasonable grounds within the contemplation of subsection (2) of section 497 of the Code of Criminal Procedure, 1898, standing in impediment to his release on bail, in the absence of any consideration calling for further probe, therefore, exercise of discretion by the Courts below being well within the remit of law calls for no interference, Criminal Petition fails. Leave declined.”

8. The contention raised by learned counsel for the applicant regarding the absence of direct forensic support is not sufficient to dislodge the other incriminating material available on record at this stage. It is by now well-settled that availability or otherwise of DNA evidence does not, in isolation, determine the fate of a sexual offence case. As laid down by the Hon'ble Supreme Court in numerous cases that availability or otherwise of DNA evidence does not independently determine the fate of a sexual offence case and it has been consistently held that the sole testimony of the complainant and victim, if found to be confidence-inspiring, may be sufficient to connect an accused with the alleged offence. In the case of **Shakeel Ahmed Vs. The State (PLD 2010 Supreme Court 47)**, it was observed that: -

“It is well-established by now that omission of scientific test of semen status and grouping of sperms is neglect on the part of prosecution which cannot materially affect the other evidence.”

Similarly, in the case of **Haji Ahmad v. State reported as (1975 SCMR 69)**, and in the case of **Irfan Ali Sher v. State (Jail Petition No. 324/2019, decided on 17 April 2020)**, the Honourable Supreme Court observed as follows: -

“As regards the semen not being sent for DNA forensic determination with a view to link it with the perpetrator is not a requirement of law.”

9. In view of above, learned counsel for the applicant/accused failed to make out a good case for grant of pre-arrest bail in the light of sub section (2) of Section 497 CrPC. In such circumstances, no exceptional

circumstance has been shown warranting grant of bail. Resultantly, the instant post-arrest bail application is dismissed.

10. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the trial in any manner.

JUDGE