

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-1167 of 2025

Applicants : 1) Raja S/o Mumtaz Ali  
2) Zamir Hussain  
3) Anwar Ali  
both sons of Imam Dino, by caste Burira  
*Through Mr. Shahid Hussain Gopang, Advocate*

Complainant : Nawaz Ali S/o Gul Muhammad, by caste Buriro  
*Through Syed Asghar Ali Shah, Advocate*

The State : *Through Mr. Mansoor Ahmed Shaikh, DPG*

Date of hearing : 09.03.2026  
Date of order : 09.03.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** — Applicants Raja, Zamir Hussain, and Anwar Ali, sought pre-arrest bail in connection with Crime No.106/2025, for the offence punishable under Section 365-B PPC registered at Police Station Kotdiji, Khairpur. At the threshold, it is imperative to record that insofar as applicant Raja is concerned, the bail application to his extent stood dismissed as not pressed vide order of this Court dated 22.01.2026, consequent upon his arrest in an independent case bearing Crime No.195 of 2025 registered at Police Station Kotdiji. Accordingly, the instant application survives exclusively to the extent of applicants Zamir Hussain and Anwar Ali, whose earlier plea for pre-arrest bail had been declined by the learned Additional Sessions Judge-IV, Khairpur, vide order dated 29.10.2025.

2. The prosecution case, as it emanates from the FIR bearing No. 106/2025 lodged by complainant Nawaz Ali Buriro, reveals that on the night of 08.11.2024 at about 01:00 AM, upon the complainant's return to his residence from Khairpur, he discovered that his daughter, Mst. Shahar Bano, was absent from the premises. Having proceeded to the village accompanied by his cousin Baggan and one Suleman, it transpired that not only was Mst.

Shahar Bano missing, but also Syeda Saima Bano, daughter of Syeda Irshad Khatoon, had similarly disappeared. Upon returning to his dwelling, the complainant encountered a charred cadaver which was, in all presumption, identified as the mortal remains of his daughter Mst. Shahar Bano; funeral rites were performed accordingly and the body was interred. In due course, it came to the complainant's knowledge that Syeda Irshad Khatoon had instituted a separate case concerning the abduction of her daughter at Police Station Shaheed Mir Murtaza against co-accused Raja and others, and had thereafter obtained an order of exhumation from the competent court, with consequent extraction of DNA samples. The complainant likewise furnished his DNA samples. It subsequently emerged that the accused Raja, Zahid, Mumtaz, Haji, and one Zaheer Hussain (identified as Zamir Hussain) were responsible for the abduction of his daughter. Following the above sequence of events, the complainant invoked the jurisdiction of the learned Sessions Judge, Khairpur, by filing an application under Section 491 Cr.P.C, which was disposed of with a direction that the registration of the case be contingent upon receipt of the DNA report. The said report, upon materialization, disclosed that the buried cadaver was in fact that of Syeda Saima Khatoon, a revelation which ultimately formed the juridical foundation for registration of the present case.

3. Learned counsel for the applicants advanced his contentions with considerable assiduity and vehemence. It was urged, first and foremost, that the applicants have been falsely arraigned in this case with mala fide intent and extraneous motivation. It was next contended that the FIR is afflicted with an inordinate and unexplained delay of about eight months and twenty-three days, which, as repeatedly held by the august Supreme Court, renders it shorn of its probative worth and gives rise to the reasonable inference of due deliberation and consultation for purposes of false implication. It was

further contended that the alleged incident, on the face of the FIR itself, is entirely unwitnessed in its character, and no intelligible source of information has been disclosed by the complainant as to how he came to learn that his daughter had been abducted. Learned counsel also urged that the averments set forth in the application under Section 491 Cr.P.C are diametrically irreconcilable with those subsequently incorporated in the FIR, the former depicting the complainant as a witness to the accused's entry into his home in the company of his wife, while the FIR portrays an entirely contradictory scenario of the complainant returning to an empty house. It was additionally submitted that the cadaver of Syeda Saima Shah was recovered from the very house of the complainant in the matter of Crime No.392/2024, whereupon the complainant himself contrived a concocted narrative and performed the burial rites, yet was enlarged on bail by the learned trial court vide order dated 29.01.2025. Learned counsel further argued that in the supplementary statements recorded in Crime No. 392/2024, both the complainant and one Sajid Ali, identified as the husband of the alleged victim Mst. Shahar Bano unequivocally stated that Mst. Shahar Bano was a woman of unsound mind who had immolated herself by sprinkling petrol upon her person, thereby creating irreducible doubt in the prosecution's edifice, the concealment of the victim's marital status in the FIR further compounding the infirmities. It was also argued that applicant Zamir Hussain is himself the lodger of FIR bearing Crime No. 195/2025 at Police Station Kotdiji for offences under Sections 302, 324, and 34 PPC, wherein his daughter Mst. Hameeda and granddaughter Rabia were allegedly done to death, and infant Raheela, aged about five years, sustained grievous injuries, with the complainant Nawaz Ali and P.W. Suleman of the present case arrayed as accused therein, a circumstance of profound relevance to the question of motive for false implication. Finally, and most significantly, it

was urged that the alleged victim Mst. Shahar Bano has, in a statement recorded under Section 164 Cr.P.C on 23.01.2026, surfaced alive and confined all allegations of forcible sexual assault exclusively to co-accused Raja, with the sole attribution against the present applicants being one of participation in the act of abduction on the night of the incident, wholly devoid of any independent overt act.

4. The learned Deputy Prosecutor General, ably assisted by learned counsel for the complainant, opposed the confirmation of bail with the submission that the names of the applicants find explicit mention in the FIR with the specific role of abduction, and that the victim herself, in her statement recorded under Section 164 Cr.P.C on 23.01.2026, reaffirmed the role of abduction attributed to them. It was further urged that co-accused Raja had unlawfully detained the victim, subjected her to repeated acts of *zina*, and as a consequence thereof, she had given birth to a male child named Muhammad Aslam; and that the victim had subsequently been recovered from the custody of co-accused Raja. On these grounds, it was contended that the applicants are disentitled to the relief sought.

5. Having accorded anxious and due consideration to the submissions of the learned counsel for the respective parties and the learned Deputy Prosecutor General, this Court proceeds to make a tentative assessment of the material on record, as mandated by the august Supreme Court in *Tariq Bashir v. The State* (PLD 1995 SC 34), wherein it was unequivocally settled that a court adjudicating upon a bail petition must confine itself to a *prima facie* appraisal of the record and must not embark upon a definitive adjudication of guilt, such determination being exclusively within the domain of the learned trial court.

6. *Prima facie*, the alleged incident is unwitnessed in its entirety. This very circumstance explains the extraordinary and perplexing sequence

of events that followed; the complainant and his relatives, upon discovering a charred cadaver, presumed it to be the body of Mst. Shahar Bano, performed the funeral rites, and interred it without independent verification. This assumption was reinforced by the subsequent supplementary statements of the complainant himself and of Sajid Ali, the husband of Mst. Shahar Bano, both of whom categorically attributed the death to suicide by self-immolation, a circumstance which, at this stage of tentative assessment, creates a formidable cloud of doubt over the prosecution's narrative. The actual identity of the buried cadaver was only unraveled upon the intervention of an extraneous party, the mother of Syeda Saima Khatoon, whose application before the learned trial court resulted in exhumation and DNA analysis, ultimately revealing that the interred remains were those of Syeda Saima and not of Mst. Shahar Bano.

7. Insofar as the specific attribution against the present applicants is concerned, it is discernible that their names were introduced into the case narrative only after the recovery and subsequent statement of the victim Mst. Shahar Bano. In this respect, a critical conflict has emerged before this Court: the Investigating Officer present in court submitted that the victim had voluntarily appeared at the police station on 23.01.2026 in the company of her father (the complainant), while the victim herself, present before this Court, has contradicted this version and asserted that she was recovered by the police from Karachi and produced before the learned Magistrate for the purposes of recording her statement under Section 164 Cr.P.C. The resolution of this factual controversy, which strikes at the very root of the credibility and voluntariness of the victim's statement is a matter of evidence to be decided exclusively by the learned trial court after full recording of evidence.

8. Insofar as the charge of abduction against the present applicants is concerned, the substratum of the prosecution's case appears, upon tentative assessment, to be built upon a foundation of inherent improbabilities and internal contradictions. If the complainant had, in fact, witnessed the alleged occurrence, it becomes inexplicable why he identified the charred body of an entirely different person as that of his own daughter and proceeded to accord her the full rites of burial. The victim's Section 164 Cr.P.C statement confines the gravamen of the allegations, particularly the commission of forcible *zina*, exclusively to co-accused Raja, with the sole role attributed to the present applicants being that of participation in the abduction, bereft of any independent or aggravated act. Equally compelling is the circumstance that in Crime No.195/2025, it is the very complainant of the present case who stands accused of the murder of the daughter and granddaughter of applicant Zamir Hussain, thereby raising a grave and reasonable apprehension of false implication motivated by enmity. It is a time-honored and authoritative principle of the law of bail that where the prosecution case is shaky, contradictory, and calls for deeper scrutiny, the case of the accused squarely falls within the ambit of "further inquiry" as contemplated by sub-section (2) of Section 497 Cr.P.C. The question of whether the applicants, by sharing common intention in the commission of the alleged offence, bear culpable responsibility, particularly in the backdrop of the murder of the daughter and granddaughter of applicant Zamir Hussain at the hands of co-accused Raja, with the present complainant and his witness arraigned as accused in that case is a determination that must await the crucible of full trial.

9. In view of the foregoing deliberation, and upon a tentative assessment of the record as a whole, this Court is of the considered opinion that the case of the applicants Zamir Hussain and Anwar Ali, falls squarely within the ambit of Section 497(2) Cr.P.C, warranting further inquiry into

their guilt. Consequently, the applicants are held entitled to the concession of pre-arrest bail, and accordingly, the interim pre-arrest bail already extended to them is hereby confirmed on the same terms and conditions previously imposed. The bail application to the extent of co-accused Raja stands dismissed as not pressed in terms of the order of this Court dated 22.01.2026, as recounted in the preceding paragraphs.

10. It is, however, ordered, declared, and expressly made clear that all observations contained in this order are tentative and exploratory in nature, made solely for the limited purpose of adjudicating the present bail application, and shall neither constitute a finding of fact nor, in any manner whatsoever, influence or fetter the independent judicial mind of the learned Trial Court in its final adjudication of the case upon its own merits and in accordance with the evidence adduced before it.

**J U D G E**