

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No. S – 22 of 2026

Azhar Lund

vs.

The State

For the Applicant : Mr. Manzoor Hussain Mahesar,
Advocate

Date of hearing : 07.01.2026

Date of announcement : 07.01.2026

ORDER

Agha Faisal, J. (1) Urgency granted. (2) Deferred (3) This matter pertains to allegations of kidnapping, abduction of a woman and illegal confinement, in respect whereof F.I.R. No.14 of 2023 was registered on 14.03.2023 before P.S. Setharja, District Khairpur, citing offences under Sections 365-B, 345, P.P.C.

2. Learned counsel submits that the applicant surrendered before the Court of the Additional Sessions Judge-IV / Special / GBV Court, Khairpur, however, vide order dated 15.02.2025, in Cr. Bail Application No.81 of 2025, the applicant's application for pre-arrest bail was dismissed, hence, the present proceedings.

3. After considering the submissions of the learned counsel and sifting¹ through the material placed before the court, reproduction whereof is eschewed herein², it is observed as follows:

- a. The FIR has been lodged by the victim herself and directly nominated the accused and assigned a culpable role thereto.
- b. Learned counsel pleaded entitlement to the concession of pre-arrest bail on the premise that the FIR was delayed by one day and that the role assigned was general in nature.
- c. Respectfully, the delay, if any, could not be demonstrated to vitiate the allegation of crime and the role assigned was observed to be direct. Therefore, the grounds articulated are not sustained.
- d. The order of the learned trial court, denying pre arrest bail, is clear and concise and paragraph 4 thereof catalogues the rationale for exercise of discretion as seen. No exception could be demonstrated in such regard and also it could not be shown

¹ *Shoaib Mahmood Butt vs. Iftikhar Ul Haq & Others* reported as 1996 SCMR 1845.

² *Chairman NAB vs. Mian Muhammad Nawaz Sharif & Others* reported as PLD 2019 Supreme Court 445; *Muhammad Shakeel vs. The State & Others* reported as PLD 2014 Supreme Court 458.

that the conclusion could not be justifiably rested on the rationale invoked.

- e. It is settled law that the determination of each bail matter has to be predicated upon its own distinctive facts and the Court was required to ascertain whether, in the distinct circumstances, a fit case for bail was made out³.
- f. Learned counsel has been unable to demonstrate any infirmity with the orders, denying pre arrest bail to the applicant, rendered by the learned subordinate Court/s particularized supra⁴.

4. The Supreme Court⁵ has maintained that grant of anticipatory bail, to an accused required in a cognizable / non-bailable offence, is an extraordinary judicial intervention in an ongoing or imminent investigative process as it interferes with the mechanics of investigation and prosecution. It has also been observed that while the statute does not expressly provide for such a remedy, it has always been recognized in our jurisprudence⁶, essentially to provide judicial refuge to the innocent and the vulnerable from the rigors of abuse of process of law; to protect human dignity and honor from the humiliation of arrest, intended for designs sinister and oblique⁷.

It has, however, been illumined that this remedy, oriented in equity, may not be invoked in every criminal case⁸, *prima facie* supported by material and evidence, constituting a cognizable / non-bailable offence and warranting arrest, which is an inherent attribute of the dynamics of the criminal justice system with a deterrent impact; it is certainly not a substitute for post arrest bail⁹.

5. In the present facts and circumstances the learned counsel has been unable to set forth a *prima facie* case for consideration of judicial refuge and it has not been demonstrated that incarceration is intended for designs extraneous, including harassment¹⁰ and humiliation¹¹, and *mala fide*¹².

6. In view hereof it is the assessment of this Court that the learned counsel for the applicant has been unable to make out a fit case¹³ for grant of the extra ordinary¹⁴ concession of pre-arrest bail, hence, the present application is hereby dismissed. It is considered pertinent to record that the observations herein are of tentative nature and shall not influence and / or prejudice the case of either party at trial.

JUDGE

³ Muhammad Faiz alias Bhoora vs. The State reported as 2015 SCMR 655.

⁴ Per Saleem Akhtar J. (as he then was) in Nasir Muhammad Wassan vs. The State reported as 1992 SCMR 501.

⁵ Per Qazi Muhammad Amin J. in Ghulam Farooq Channa vs. The Special Judge ACE (Central I) Karachi & Another (Criminal Petition 169 of 2020).

⁶ Per Cornelius J. in Hidayat Ullah Khan vs. The Crown reported as PLD 1949 Lahore 21.

⁷ Abdul Aziz Memon vs. The State reported as 2020 SCMR 313.

⁸ Gulshan Ali Solangi vs. The State reported as 2020 SCMR 249.

⁹ Rana Abdul Khaliq vs. The State reported as 2019 SCMR 1129.

¹⁰ Murad Khan vs. Fazle Subhan & Another reported as PLD 1983 Supreme Court 82.

¹¹ Ajmal Khan vs. Liaqat Hayat & Another reported as PLD 1998 Supreme Court 97.

¹² Mukhtar Ahmed vs. The State reported as 2016 SCMR 2064.

¹³ Zia Ul Hassan vs. The State reported as PLD 1984 Supreme Court 192.

¹⁴ Muhammad Sadiq & Others vs. The State reported as 2015 SCMR 1394.