

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**  
*Criminal Bail Application No. S-2948 of 2025*  
*(Mst. Momina Versus the State)*

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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*For hearing of Bail application*

**18.12.2025.**

Mr. Muhammad Sajjad Virk, Advocate for the Applicant  
 Mr. Muhammad Mohsin Mangi, Assistant Prosecutor General  
 Mr. Pervaiz Ahmed Bhatti, associate of Mr. Muhammad Fahim Zia, Advocate for the Complainant.

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**Ali Haider 'Ada' J.:-** Through this bail application, the applicant seeks post-arrest bail in FIR No. 164 of 2025, registered at Police Station Civil Lines, Karachi South, for offences punishable under Sections 365-B, 354, 371-A, and 371-B PPC. Before this, the applicant approached the Court of the learned Additional Sessions Judge-III, Karachi South, but her bail application was declined vide order dated 18.10.2025.

2. Briefly stated, the complainant has alleged that the incident occurred on 23.08.2025. Her daughter, Shaista, aged about 17-18 years, resided with her. Due to cordial relations with the applicant Momina, the applicant allegedly asked the complainant to bring her daughter to Thandi Sarak near Railway Quarters, from where the applicant would arrange work for her. However, upon reaching there, one Wazir Ali, Zahid Mehmood, and an unknown person were also present, and thereafter they allegedly took her daughter in a car and did not return. Subsequently, it came to the complainant's knowledge that her daughter had been kidnapped for the purpose of committing zina. She therefore approached the Police Station on 25.08.2025 and lodged the FIR.

3. Learned counsel for the applicant submits that, after registration of the FIR, the Investigating Officer conducted an investigation and recommended disposal under "C" class, noting in the report that the alleged victim Shaista had appeared voluntarily; however, the learned Magistrate took cognizance. He further submits that there is delay in

lodging the FIR without any plausible explanation. Even the statement under Section 164 Cr.P.C., recorded on 08.09.2025 after almost 13 days, is materially inconsistent with the FIR. It is also argued that no medical evidence is available on record. Finally, learned counsel submits that the complainant has appeared before this Court along with a supporting affidavit and has raised no objection if bail is granted to the applicant; hence, he prays for concession of bail.

4. Conversely, Mr. Pervaiz Ahmed Bhatti, associate of Mr. Muhammad Fahim Zia, learned counsel for the complainant, is not in attendance. However, it is noted that a no-objection affidavit from the complainant is already available on record. Learned State Counsel submits that an FIR lodged by accused Momina is also pending. Nonetheless, the available material demonstrates that the police investigated the present matter and proposed disposal under "C" class.

5. Heard and perused the record.

6. Firstly, on merits, there are material contradictions and inconsistencies on record. The version set out in the FIR does not correspond with the statement recorded under Section 164, Cr.P.C., and the latter statement was recorded after an unexplained delay of thirteen days. The FIR itself was lodged after a delay of two days without any plausible justification, which creates doubt regarding deliberation and afterthought. The statements of the alleged abductee recorded under Sections 164, Cr.P.C, are at variance in respect of the mode and manner of the occurrence. Reliance may be placed upon the judgment reported as *Zeeshan and five others v. The State and another (2022 YLR 2046)*.

7. It is the primary duty of the prosecution to establish its case through cogent material and to demonstrate the entire chain of circumstances linking the accused with the commission of the alleged offence. Here, although an allegation of kidnapping has been levelled, the complainant's own narrative suggests that the alleged abductee managed to leave the purported custody on her own. Whether such escape was possible in the manner alleged, and whether any element of coercion, inducement or detention existed, are matters that can only be

determined after recording evidence at trial. It also remains undisputed that the alleged victim was never recovered through the police or any independent source, which further undermines the prosecution's stance. Reliance in this regard may be placed upon *Zia Jamali v. The State* (2022 MLD 1078).

8. There is also unexplained delay in setting the criminal law into motion despite the allegation of a serious offence. Such delay, in the absence of justification, casts doubt on the prosecution's version and suggests deliberation. Guidance may be taken from *Abdul Nabi Burriro v. The State* (2024 MLD 934) and *Behram Jakhro and others v. The State* (2024 MLD 1359).

9. The concept of Section 497(1), Cr.P.C. shows that the first part of the section contemplates that, for non-bailable offences not falling within the prohibitory clause, the grant of bail is a rule and refusal an exception. The second part restricts bail where reasonable grounds exist to believe the accused has committed an offence punishable with death, imprisonment for life, or imprisonment for ten years. The first proviso to Section 497(1) empowers the Court to release on bail a woman, a minor under sixteen, or a sick or infirm person even in cases falling within the prohibitory clause, thereby equating the treatment of such persons with that accorded under the first part of Section 497(1). This demonstrates that, in the case of a female accused, irrespective of the category of offence, bail is ordinarily to be granted and refusal is to remain an exception. Reliance may be placed upon *Fazal Elahi v. Farah Naz* (1979 SCMR 109), *Liaquat Ali v. Bashiran Bibi* (1994 SCMR 1729), *Zakir Jaffer v. The State* (2021 SCMR 2084) and *Tahira Batool v. The State and another* (PLD 2022 SC 764).

10. Although the alleged offence is non-compoundable, the no-objection stance of the complainant, who has personally appeared before the Court and affirmed the same, may still be considered as a factor while assessing the question of further inquiry. Reference may be made to *Muhammad Najeeb v. The State* (2009 SCMR 448) and *Akhtiar Ahmed and another v. The State* (2018 PCr.LJ Note 2).

11. In view of the above discussion, the application is allowed. The applicant is admitted to post-arrest bail on furnishing solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand Only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. The observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

*JUDGE*