

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No.S-237 of 2026
[Aqeel Ahmed Chohan vs. The State]

Applicant : Aqeel Ahmed Chohan, *through*
Mr. Assadullah Soomro, Advocate.

The State : *through* Mr. Muhammad Raza
Katohar, Deputy Prosecutor
General.

Complainant : Muhammad Aslam, *through*
Ms. Rizwana Jabeen Siddiqui,
Advocate.

Date of Hearing : 11.05.2026
Date of Order : 11.05.2026

ORDER

Ali Haider 'Ada' J.- Through this bail application, the applicant seeks the concession of pre-arrest bail in Crime No.18 of 2026, registered at Police Station Tando Masti Police Station on 26.01.2026 at the instance of complainant Muhammad Aslam, for offences punishable under sections 302, 337-J, 377, 504, and 34 PPC. Earlier, the applicant approached the learned trial Court for the same relief; however, vide order dated 13.02.2026, his bail application was declined.

2. Briefly stated, the prosecution's case as set out in the FIR is that the complainant's son, namely Noman, aged about 14 to 15 years, was accompanying driver Imdad Ali as well as the present applicant, both being servants/drivers of the complainant. On 23.01.2026, the complainant received information that his son and the accused Imdad Ali were lying unconscious at GIMS Hospital, Gambat. Upon reaching there, the complainant found that his son had expired, whereas the accused Imdad Ali was unconscious. It is further alleged that the present applicant informed the complainant party about the occurrence and thereafter removed his brother, Imdad Ali, from the hospital while extending threats that, in case

any proceedings were initiated against his brother, videos about sodomy would be uploaded. The prosecution further alleges that the deceased minor was first administered intoxicating substances by the accused persons and thereafter subjected to unnatural offence, which ultimately resulted in his death.

3. Learned counsel for the applicant contended that the applicant has falsely been implicated in the present case, and no specific role has been assigned to him in the FIR. He further argued that the name of the applicant has been introduced mala fide with ulterior motives. Conversely, learned counsel for the complainant opposed the bail application by submitting that the applicant is directly connected with the commission of a heinous offence and that the essential ingredient for the grant of pre-arrest bail, namely mala fide or ulterior motive on the part of the complainant, is conspicuously absent in the instant matter. In support of her submissions, reliance was placed upon the cases reported as 2000 SD 1, 2021 YLR 1735, and 2021 P.Cr.LJ 1015. Learned Deputy Prosecutor General, while adopting the arguments advanced by the complainant's counsel, submitted that the medical evidence fully corroborates the prosecution's story. He argued that the medical opinion clearly reveals that the deceased was subjected to rape/sodomy and that the cause of death was opined to be subarachnoid hemorrhage coupled with benzodiazepine overdose. According to the learned D.P.G., sufficient incriminating material is available on record connecting the applicant with the commission of the offence; therefore, he is not entitled to the concession of pre-arrest bail.

4. Heard learned counsel for the parties and perused the material available on record with their able assistance.

5. Tentatively assessing the material available on record, it appears that the present applicant is specifically nominated in the case and sufficient incriminating material has surfaced connecting

him with the commission of the offence. The statements recorded under section 161 Cr.P.C. prima facie lend support to the prosecution version. At this stage, no mala fide, ulterior motive or enmity has been shown on the part of the complainant which could justify the false implication of the applicant in such a serious occurrence.

6. The record further reflects that the alleged act of sodomy was committed after administering intoxicating substances to the deceased minor, resulting in his death. The role attributed to the applicant is neither ancillary nor distinguishable from the principal occurrence and, therefore, tentatively he cannot be excluded from the ambit of accusation.

7. The medical evidence is also in line with the ocular account furnished by the prosecution and prima facie supports the allegations levelled against the accused persons. In this regard, reference may also be made to the case of **Aman Ullah v. The State, PLD 2009 SC 542**.

8. It is by now well-settled that pre-arrest bail is an extraordinary relief which is to be granted sparingly and only in exceptional circumstances where mala fide, ulterior motive or abuse of process of law is demonstrably established. The applicant has failed to bring his case within the parameters governing the grant of such an extraordinary concession. Support is drawn from the case of **Muhammad Azam vs The State, PLD 1996 SC 67**.

9. Moreover, the alleged offences pertain to sodomy and the death of a minor child, which undeniably constitute heinous offences against society. The punishment provided is severe in nature, extending from fourteen years up to twenty years imprisonment, along with a fine. Thus, the offence squarely falls within the prohibitory clause of section 497 Cr.P.C.

10. In case of **ARSALAN KHAN Versus The STATE 2025 PCr.LJ**

1693, held that:

*7. Sections 377A and 377B, introduced through the Criminal Law (Second Amendment) Act of 2016, establish the offence of sexual abuse. Section 377A defines sexual abuse as any act or series of acts involving the employment, use, coercion, persuasion, inducement, enticement, or forceful engagement of a person in sexually explicit conduct when the victim is under eighteen years of age. Such conduct includes, but is not limited to, fondling, stroking, caressing, exhibitionism, voyeurism, or any other form of obscene or sexually explicit behavior, whether real or simulated. Notably, this provision applies regardless of the victim's consent and covers both standalone acts and those occurring in conjunction with other offences. Meanwhile, Section 377B prescribes the penalties for individuals convicted of sexual abuse as defined under Section 377A. Given that the Applicant is, prima facie, linked to the charges under Sections 377, 511, and 377A of the Pakistan Penal Code, 1860, read in conjunction with Section 377B, the Applicant is not eligible for bail at this current stage. In a parallel legal context, the Islamabad High Court adjudicated in *Nauman Hussain v. The State and Another* (2022 MLD 958), wherein it was authoritatively observed that: "Even otherwise, under section 377-A, P.P.C, in order to constitute offence of section 377-B, P.P.C., no actual penetration is required and the offence is committed even where there is stroking, caressing, exhibitionism, etc. and the modes exhaustive. Moreover, report by the Director, FIA is categoric that offence under section 377, P.P.C. has been committed. For what has been stated above, the instant petition is without merit and is accordingly dismissed".*

11. Keeping in view the foregoing discussion and tentative assessment of the material available on record, it appears that the applicant had been enjoying the concession of interim pre-arrest bail since registration of the FIR; however, having failed to make out a case for confirmation of the same, the applicant is not entitled to the extraordinary relief of pre-arrest bail. Consequently, the order dated 10.03.2026, whereby interim pre-arrest bail was granted to the applicant, is hereby recalled. The applicant, who is present in Court, is taken into custody forthwith and be handed over to the SHO/Investigating Officer of Tando Masti Police Station for the purpose of obtaining his physical remand from the Court of competent jurisdiction in accordance with law.

12. Needless to observe that the remarks made hereinabove are purely tentative in nature and shall not prejudice the merits of the

case at the time of trial. The learned trial Court is directed to conclude the trial expeditiously, preferably within a period of three months, strictly in accordance with law.

JUDGE