

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERBAD**

Criminal Bail Application No.S-529 of 2026

Applicant: Fayaz *through* Mr. Muhammad Nawaz Panjotha, Advocate

Complainant: Abdul Latif *through* Mr. Kashif Hussain, Advocate.

Respondent: The State, *through* Mr. Irfan Ali Talpur, Deputy Prosecutor General Sindh.

Date of hearing: 11.05.2026
Date of decision: 11.05.2026

ORDER

RIAZAT ALI SAHAR, J- Through the captioned criminal bail application, applicant Fayaz son of Ali Nawaz seeks post-arrest bail in FIR No.02 of 2026, registered at Police Station Sehwan, District Jamshoro, for the offence punishable under Section 377-A PPC. Earlier, the applicant approached the learned Additional Sessions Judge-II, Jamshoro, seeking the same relief, however, his bail application was declined vide order dated 24.04.2026.

2. Briefly stated, the prosecution case as set out in the FIR is that on 27.12.2025, the complainant along with his brother Azam Amro returned home after sunset after closing their motorcycle shop. Upon arrival, they were informed by the inmates of the house that the complainant's minor son, Ahad Ali, had gone to purchase vegetables and had not returned despite considerable passage of time. Consequently, the complainant and his brother proceeded in search of the child while carrying torches. At about 07:30 p.m., when they reached near the constructed shops situated on Sehwan Divine Hotel Road at Perara Muhalla, they allegedly heard cries emanating from behind the shops. Upon reaching the spot, they allegedly witnessed, in the light of the torch, that the victim Ahad Ali was lying face down with his shalwar removed, while the present applicant/accused Fayaz was committing sodomy with him. Upon their raising alarm, the accused allegedly fled away from the scene while putting on his shalwar and taking advantage of the darkness. Thereafter, the complainant brought his son home and, after consultation with family members and elders, approached Police Station Sehwan on 31.12.2025 wherefrom a letter

for medical examination was obtained. The victim was medically examined at Syed Abdullah Shah Hospital, Sehwan, where a provisional medical certificate was issued. Consequently, the present FIR came to be lodged against the applicant.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in this case. He argued that the FIR was lodged with unexplained delay of about eight days, which renders the prosecution story doubtful. According to learned counsel, it is highly unnatural that despite allegedly witnessing such an occurrence, the complainant would first consult family members and elders instead of immediately approaching the police. He further submitted that neither any prior application nor NC was lodged against the applicant and even no immediate medical examination was conducted on the date of occurrence. Learned counsel also argued that the medical report does not support the prosecution version as no injuries were found on the body or peri-anal region of the victim. He further submitted that the complainant has filed an affidavit of no objection for grant of bail to the applicant, therefore, no useful purpose would be served by keeping the applicant behind bars. Lastly, he argued that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

4. Learned counsel for the complainant submitted affidavit of no objection on behalf of the complainant and stated that the complainant has no objection if bail is granted to the applicant/accused.

5. Learned Deputy Prosecutor General, on the other hand, vehemently opposed the grant of bail and argued that the applicant has specifically been nominated in the FIR with the direct allegation of committing sodomy with the minor victim. He further submitted that the victim has also recorded his statement under Section 164 Cr.P.C. before the learned Magistrate, wherein he fully supported the prosecution case and implicated the applicant in the commission of offence. According to learned DPG, mere filing of an affidavit of no objection by the complainant cannot outweigh the incriminating material available on record. He therefore prayed for dismissal of the instant bail application.

6. I have heard learned counsel for the parties and have gone through the available record with their able assistance.

7. Tentative assessment of the material available on record reflects that the complainant as well as eyewitness Azam Amro allegedly witnessed the applicant/accused committing sodomy with the minor victim. The applicant has specifically been nominated in the FIR with an assigned role. It is also the prosecution case that upon being noticed, the accused fled away from the scene. At this stage, the defence plea of false implication can only be examined after recording of evidence during trial.

8. So far as delay in lodging the FIR is concerned, prima facie the same appears to have been sufficiently explained. It is a matter of common observation that in offences involving sexual assault and social stigma, the aggrieved families often hesitate before approaching law enforcement agencies due to societal pressure and concern for family honour. Therefore, mere delay in registration of the FIR by itself is not sufficient to discard the prosecution case at the bail stage.

9. The argument regarding filing of affidavit of no objection by the complainant also does not materially advance the case of the applicant. It is settled law that in non-compoundable offences, particularly where the victim has already supported the prosecution case through his statement recorded under Section 164 Cr.P.C., the Court is not bound by any subsequent compromise or no objection affidavit. In this regard, reliance may safely be placed upon the case of **Naseer Ahmed v. The State** (PLD 1997 Supreme Court 347), wherein the Hon'ble Supreme Court observed that Courts are required to exercise utmost caution where witnesses attempt to retract from their earlier version or file affidavits favourable to the accused at the bail stage with a view to create doubt in the prosecution case.

10. The contention of learned counsel regarding absence of injuries in the medical report also does not persuade this Court to extend concession of bail to the applicant at this stage. It is by now well settled that medical evidence is merely corroborative in nature and cannot override direct ocular account and statement of the victim. Moreover, the medical examination was conducted after some delay, therefore the evidentiary value and impact of medical evidence can only properly be assessed by the trial Court after recording evidence.

11. The offence alleged against the applicant falls within the prohibitory clause of Section 497 Cr.P.C. and no exceptional circumstance has been pointed out warranting extraordinary concession of bail. The material presently available on record,

including the ocular account and statement of the victim recorded under Section 164 Cr.P.C., prima facie provides reasonable grounds to believe that the applicant is connected with the commission of the alleged offence. At this stage, the case does not appear to be one of further inquiry.

12. As regards the plea of false implication, learned counsel for the applicant could not point out any previous enmity or ulterior motive on the part of the complainant which may reasonably suggest false involvement of the applicant in such a heinous offence. It is well settled that at bail stage only tentative assessment of the material is to be made and deeper appreciation of evidence is to be avoided lest it may prejudice the case of either party at trial. Reliance in this regard may be placed on **Bilal Khan v. The State** (2020 SCMR 937).

13. The alleged offence is undoubtedly grave and heinous in nature, particularly as it concerns sexual abuse of a minor child. Grant of bail in offences falling within the prohibitory clause of Section 497 Cr.P.C. is not to be made as a matter of course unless the case of the accused falls within the recognized exceptions contemplated under the law, which prima facie is not the position in the present matter.

14. In view of what has been discussed above, this Court is of the tentative view that the applicant failed to make out a case for grant of post-arrest bail. Consequently, the instant bail application was **dismissed**. However, the learned trial Court was directed to expedite the trial and conclude the same preferably within a period of three months without being influenced by any observations made hereinabove, which are purely tentative in nature. These are the reasons of short order dated 11.05.2026.

JUDGE