

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S- 905 of 2026

Applicants: 1. Nadir alias Barkat Ali,
2. Asghar Ali, sons of Sanwan Khan
through Mr. Imran Hussain Shah, Advocate.

The State Through Mr. Muhammad Raza Katohar,
Deputy Prosecutor General, Sindh.

Date of hearing & Order: 06.10-2026.

ORDER.

Suresh Kumar, J --- Through instant bail application, Applicants named above seek post arrest bail in a case bearing crime No. 94/2026, offence u/s 376,511 PPC registered at Police Station Khambra District Ghotki.

2. The brief facts of the case, as depicted in the FIR, are that the complainant, Ali Nawaz, lodged an FIR alleging that on 08.07.2026, he, his wife Mst. Wazeeran, and his nephew Meer Hassan were cutting grass for their cattle. While he and his wife were returning home at 8:00 a.m., they reached near the land of Abdul Rehman, where his wife, Mst. Wazeeran, raised cries in the sugarcane crop. They saw Nadir alias Barkat, Gulzar, and Arbab Ali holding the legs and arms of Mst. Wazeeran, while the accused Asghar Ali attempted to remove Mst. Wazeeran's shalwar and tried to commit zina with her. Upon her cries, all the accused fled the scene. The complainant subsequently filed a petition before the Additional Sessions Judge, Sadiqabad, but they disclosed that the incident did not take place in Machhika. They were kept on false hope for a faisla and were ultimately refused; hence, the complainant went to the police station and lodged the FIR.

3. The applicant initially sought post arrest bail from the Court of the learned Additional Sessions Judge-II Mirpur Mathelo, which was dismissed vide order dated 31.08.2026. Aggrieved by this dismissal, the applicant has approached this Court.

4. I have heard the learned counsel appearing on behalf of the applicant/accused and the learned Deputy Prosecutor General for the State who opposed for grant of post arrest bail.

5. Having given due consideration to the arguments advanced by the counsel for the parties and having perused the material available on record, it is evident from the examination of the FIR that the applicant/accused, Asghar Ali, has been assigned a specific role in the attempt to commit zina, and this fact is supported by the statement of the victim recorded under Section 164 of the Code of Criminal Procedure (Cr.P.C.), as well as the application under Sections 22-A and 22-B of the Cr.P.C. filed before the Justice of Peace. Therefore, there is sufficient material connecting the applicant/accused, Asghar Ali, to the commission of the alleged offence.

6. As far as the role of Nadir alias Barkat Ali is concerned, he has allegedly facilitated the main accused, Asghar Ali, but he did not attempt to commit zina; therefore, his case is on a different footing from that of the main applicant/accused, Asghar Ali. It is well-settled law that vicarious liability cannot be determined at this stage; consequently, the case against the applicant/accused, Nadir, falls within the ambit of further inquiry as embedded in Section 497(2) of the Cr.P.C. The applicant/accused, Nadir Ali, has already been remanded to judicial custody and is no longer required for further investigation..

7. In view of above facts and circumstances, I am of the considered view that the applicant/accused Asghar Ali has not made out a case for bail; therefore, his bail application is dismissed. The case of the applicant/accused Nadir Ali alias Barkat Ali is on a different footing, and he has made out his case for bail in light of further inquiry. Therefore, the bail application of applicant Nadir Ali alias Barkat Ali is allowed, and he is granted bail subject to furnishing a surety in the sum of Rs. 30,000/- (thirty thousand) and a PR bond in the like amount to the satisfaction of the trial court.

8. Needless to say that above observations are tentative in nature and will not prejudice the case of either party.

J U D G E