# IN THE HIGH COURT OF SINDH AT KARACHI

**Criminal Bail Application No. 1956 of 2026**

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| Applicant | : | Ashfaq Ahmed<br>son of Talib Hussain<br>Through Mr. Danish Ali, advocate |
| Complainant | : | Muhammad Ismail<br>son of Deedar Ali<br>Through Mr. Awais Ahmed, advocate. |
| The State | : | The State:<br>Through Ms. Seema Zaidi,<br>Addl. P. G. Sindh |
| Date of hearing | : | 21.10.2026. |
| Date of Order | : | 21.10.2026. |

## O R D E R

**Jan Ali Junejo, J:-** Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant Ashfaq Ahmed son of Talib Hussian, who seeks his release on bail in connection with FIR No.19 of 2026 registered at Police Station Baloch Colony, Karachi for the offences punishable under Sections 496-A PPC. The applicant has approached this Court being aggrieved by the order dated 11.06.2026 passed by the learned Additional Sessions Judge-III/Special Court (ARITA-2021), Karachi South whereby his bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that the complainant Muhammad Ismail resides with his family at the address mentioned in the FIR and is engaged in labour work. On 09.01.2026 at about 1400 hours he returned home after completing his work and found that his wife, Mst. Momal aged about 25 years was not present. Upon inquiry, his children informed him that she had gone shopping. At about 1700 hours the complainant again left home for work. Subsequently, his daughter informed him telephonically that her mother had not returned home. After finishing his work, the complainant searched for his wife but could not trace her. He suspected that some unknown persons had

wrongfully, deceitfully, and forcibly kidnapped his wife; hence, he lodged the instant FIR.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case due to mala fide intentions and ulterior motives of the complainant and the police, while the actual facts have been concealed. He submits that the applicant's name does not appear in the FIR, nor has any specific role been attributed to him, and that the FIR was lodged after an unexplained delay of more than two days, casting serious doubt upon the prosecution's version. He further argues that Mst. Momal left the complainant's house of her own free will and consent and subsequently contracted marriage with the applicant in accordance with law, as reflected in the Nikahnama, wherein she was declared to be a divorced woman. According to learned counsel, the applicant and Mst. Momal resided together voluntarily for more than three months, and photographs, the Nikahnama, and an affidavit of free will support the applicant's stance that no abduction or forcible confinement took place. He further contends that Mst. Momal subsequently changed her version in her statement recorded under Section 164 Cr.P.C. under alleged pressure and influence of her family members, and that the truthfulness of the said statement can only be determined after recording evidence at trial. He maintains that no independent witness has been produced to establish that the applicant forcibly abducted Mst. Momal or compelled her to contract the marriage, while the prosecution story contains material contradictions requiring further inquiry within the meaning of Section 497(2) Cr.P.C. Learned counsel further submits that the applicant has been in custody for more than two months, has no previous criminal record, and that the alleged offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C. He argues that the applicant's continued incarceration would serve no useful purpose, particularly as the trial is likely to take considerable time, and prays that the applicant be admitted to bail.

4. Conversely, learned Addl. P. G. Sindh assisted by learned counsel for the complainant, opposes bail application and contends that applicant is fully implicated by the victim in her statements recorded under Sections 161 and 164, Cr.P.C.; that no case for bail is made out; learned A.P.G. lastly prayed for dismissal of bail application.

5. I have heard the learned counsel for the applicant, learned counsel for the complainant, and learned Additional Prosecutor General, Sindh, and have perused the available record.

6. Although the applicant's name does not appear in the FIR, the same was initially lodged against unknown persons, as the complainant was unaware of the whereabouts of his wife at the relevant time. The prosecution asserts that the victim subsequently implicated the applicant in her statements recorded under Sections 161 and 164 Cr.P.C. Therefore, the applicant's non-nomination in the FIR, by itself, does not entitle him to the concession of bail. The evidentiary value of the said statements shall be assessed by the learned trial Court in accordance with law.

7. The contention of learned counsel for the applicant that Mst. Momal left her matrimonial home voluntarily and contracted marriage with the applicant is supported, according to the defence, by the Nikahnama, an affidavit of free will, and photographs. However, these documents and the plea of consent require examination in the light of the prosecution material. Likewise, the assertion that the victim subsequently changed her version under pressure from her family members cannot be accepted as an established fact at this stage. The alleged delay in lodging the FIR, absence of independent witnesses, and plea of mala fide have also been considered; however, in the circumstances of the case, these grounds do not sufficiently persuade this Court to extend the concession of bail under Section 497(2) Cr.P.C. The applicant's clean antecedents and the period of his incarceration have likewise been considered but are not, in themselves, sufficient to justify his release on bail.

8. In the present case, keeping in view the nature of the accusation and the material relied upon by the prosecution, particularly the victim's statements recorded under Sections 161 and 164 Cr.P.C., I am not persuaded that the applicant has made out a case for the grant of post-arrest bail at this stage. The questions raised by the defence, including the voluntariness of the alleged marriage and the credibility of the victim's statements, shall be determined by the learned trial Court after recording evidence and hearing the parties.

9. In view of the foregoing discussion, I find no sufficient ground to grant the concession of post-arrest bail to the applicant at this stage. Consequently, the instant bail application filed by Ashfaq Ahmed son of Talib Hussain is dismissed. The observations made herein are tentative in nature and shall not prejudice either party or influence the learned trial Court, which shall decide the case independently on its own merits and in accordance with law

**JUDGE**