

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

Cr. Bail Application No. S-700 of 2026

Applicant : Javed s/o Khuda Dino.
Through Mr. Dilshad Ahmed Memon,
advocate.

Respondent : The State
Through Ms. Sana Memon, Assistant
Prosecutor General.

Complainant : Waryal (Present in-person).

Date of hearing : 24-08-2026
Date of order : 24-08-2026

ORDER

JAWAD AKBAR SARWANA, J.- Through the captioned bail application, applicant/accused Javed seeks post-arrest bail in Crime No.43/2025, registered at Police Station Hala Old, Matiari, for the offences U/S 452, 376 (2), 34-PPC. Earlier, the learned Additional Sessions Judge/Special Judge (Anti-Rape), Matiari, declined his first bail application vide order dated 27.02.2026.

2. The background of the matter as set out in the FIR for the sake of brevity is not reproduced and may be read in to this paragraph ad seriatim.

3. Learned counsel for the applicant submits that the applicant is innocent and has falsely been implicated in the present case due to ulterior motives; that as per the report, and, no human semen has been found in the examination of the victim.

4. Complainant is present in person and has placed his confidence in the learned Assistant Prosecutor General, who has candidly conceded that while the applicant/accused is/was nominated in the heinous offence with the victim, yet on account of the delay in filing FIR, the negative DNA report and no other evidence made out, this matter, given the facts and circumstances, may be a case for further enquiry.

6. I have heard the learned counsel for the parties, and examined the material available on record.

7. Admittedly, the applicant has been nominated in the F.I.R with a specific role. The offence with which the applicant/accused has been

charged is a non-compoundable offence. Yet at the same time, the FIR by the Complainant, Waryal s/o Muhammad Paryal, was registered on 16.10.2025, alleging that his son Fareed, who was found dead, was the result of an incident of zina of his deceased son's wife, Mst. Husna, committed by the named accused in the FIR, and that this incident took place sometime in June 2025, whereafter the complainant's son was found dead in mysterious circumstances and his death was not suicide but murder. At the outset, notwithstanding that this bench is hearing a post-arrest bail under the Special (Anti-Rape) Statute, there is more than one crime alleged in the FIR: an alleged death of Fareed, whether suicide or murder; and an alleged, earlier in time, commission of zina by the named accused, involving Fareed's wife, Mst. Husna. The delay in filing of the FIR providing the above information has been recorded after considerable delay – after almost four (4) months from the occurrence of the crime. Thus, given this matrix of the case and the delay in FIR, this post-arrest bail application calls for further investigation.

8. There is another aspect too. On the one hand, according to the Final MLC (handwritten) dated 03.03.2026, the WMO, found “No act of sexual assault has been committed.” Further, as per the Additional DNA report dated 10.04.2026, available in the police file, it was also found that “The 02 vaginal swab samples & cloths of victim Mst. Husna wd/o Fareed Machi (Item 1.0 & Item 2.0) do not contain Male DNA / Semen stains / Sperm fractions”. Yet, at the same time, as per the conclusion in the report of the Office of the Medical Superintendent, Hala, which took into account the aforesaid Additional DNA report, too, it found, “From the findings mentioned in Provisional Medical Legal Certificate & DNA report, I am of the opinion that accused named Jawed s/o Khuda Dino is Potent and Able for Sexual Offence”. These differing conclusions reproduced above call for further inquiry, too.

9. Further, at this stage, the Challan has already been submitted before the trial Court, and the physical custody of the accused/applicant is no longer required for investigation; and the trial is set to commence. The learned A.P.G. submits that the applicant/accused is neither a previous convict nor shown to be a hardened criminal. Based on the above observations of the A.P.G., the accused does not appear to be a threat to society at this stage, notwithstanding the heinous allegations charged. The entire matter remains, at the end of the day, subject to trial.

10. The upshot of the above discussion is that the DNA report is negative, and whether or not Zina had been committed with Mst. Husna would require further enquiry.

11. Keeping in view the totality of the circumstances, the legal plane and position, and with the caveat that this matter may not be treated as a precedent, and given the facts and circumstances on record, without expressing any opinion on the merits of the case, which may prejudice either party at the trial, this bench finds that the case of the applicant/accused calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, for the foregoing reasons, the applicant/accused, Javed s/o Khuda Dino Machi, is entitled to grant of concession of post-arrest bail subject to his furnishing solvent surety in the sum of **Rs.300,000/- (Rupees Three Lacs Only)** and P.R. bond in the like amount to the satisfaction of the learned trial Court.

12. Needless to mention that the observations made herein are merely tentative and shall not be relied upon by the parties or by the trial Court and shall not influence the learned trial Court at the time of final decision based on merits after recording of evidence.

13. The bail application is allowed, and the applicant/accused may be released on the above terms, provided they are not incarcerated in some other crime.

14. The above are the reasons for allowing the bail application vide my Short Order dated 24.08.2026.

J U D G E
24.08.2026