IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2984 of 2026

Applicant	:	Mumtaz son of Ramzan Through: Mr. Sajjad Ali Khawaja advocate.
Complainant	:	Haji son of Bachu Through: Mr. Muhammad Daud Narejo, advocate.
The State	:	Through Mr. Zahoor Shah, Additional Prosecutor General, Sindh
Date of hearing	:	29.10.2026.
Date of Order	:	29.10.2026.

O R D E R

Jan Ali Junejo, J:- Through this Criminal Bail Application, the Applicant Mumtaz son of Ramzan seeks post-arrest bail in FIR No. 80/2026 registered at Police Station Jati for offences under Sections 376/337-B PPC R/s Section 3(i)3 of Anti Rape Act, 2021. The earlier post-arrest bail application filed by the applicant was dismissed by the learned Special Court for Anti-Rape Trials/Court of Additional Sessions Judge-I, Sujawal vide order dated 21.07.2026. Being aggrieved, the Applicant has approached this Court.

2. Brief facts of the prosecution case, as narrated in the FIR, are that the complainant stated that he was residing at the mentioned address and working as a labourer. On 28.06.2026, while he and his family members were working in the fields near their house, his ten-year-old daughter, namely Parveen was alone at home. At about 12:00 noon upon hearing screams from his house, he alongwith his brother-in-law Qasim son of Jumoon Mallah, and his relative Shafi son of Aloo Mallah rushed inside and allegedly saw accused Mumtaz son of Ramzan Mallah with his and the minor's Shalwar removed and forcibly committing zina with her. On seeing them approaching, the accused put on his Shalwar and fled

towards the nearby forest. Thereafter, they dressed the minor, who disclosed that the accused had entered the house, forcibly removed her Shalwar and attempted to commit zina with her, whereupon she raised cries, attracting their attention. Subsequently, they took the minor to Police Post Mureed Khoso, obtained a medical letter and got her medically examined. The complainant thereafter approached the police and lodged the report against the accused, alleging that he had committed zina with his minor daughter Parveen, hence, this FIR.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case owing to previous enmity and a dispute between the families. He submits that the FIR was lodged with an unexplained delay of more than one day, despite the complainant having already obtained a medical letter from the police authorities. He further argues that the alleged occurrence is supported only by the statements of the complainant and his close relatives, without association of any independent witness, and that the prosecution story, particularly the alleged conduct of the complainant party in allowing the applicant to dress himself and escape, requires cautious scrutiny. He contends that although the medical examination report may indicate the occurrence of sexual assault, it does not conclusively establish the identity of the applicant as the perpetrator, which rests upon the testimony of interested witnesses and requires determination at trial. He further submits that the complainant and the minor victim have voluntarily furnished affidavits expressing no objection to the grant of bail, and that the applicant has remained in custody since his arrest, whereas the investigating officer has yet to submit the challan before the learned Trial Court. He maintains that the allegations of the prosecution are false, fabricated and motivated by mala fide intention to harass and blackmail the applicant, and that the circumstances of the case call for further inquiry within the meaning of Section 497(2), Cr.P.C. Placing reliance upon Naveed Sattar v. The State (2024 SCMR 205), he argues that the gravity of the offence alone is not sufficient to deny bail where reasonable grounds for further inquiry exist. He lastly submits that the applicant is a permanent resident of the locality, is not likely to abscond or tamper with

the prosecution evidence, and undertakes to regularly attend the trial proceedings; hence, he prays for grant of post-arrest bail.

4. Learned counsel for the complainant submits that the complainant and the minor victim have sworn affidavits expressing no objection to the grant of post-arrest bail to the applicant. He, therefore, places the said affidavits on record and submits that he has no objection if the applicant is admitted to bail, subject to the discretion of this Court.

5. Conversely, learned Additional Prosecutor General has argued that a prima facie case is clearly established against the Applicant/accused. The learned APG argued for the dismissal of the bail applications, contending that the applicant/accused has been explicitly nominated in the FIR with a specific role of committing offence against the victim. It was further submitted that the offence is not compoundable. Given these circumstances, the accused is not entitled to bail, as no exceptional grounds exist to warrant any leniency.

6. I have heard the learned counsel for the applicant and learned A. P. G. Sindh, and have gone through the available record with their assistance.

7. The applicant seeks post-arrest bail in a serious offence involving an allegation of sexual assault upon a ten-year-old minor girl. Perusal of the FIR reflects that the applicant has been specifically nominated therein, with a direct and specific role attributed to him. The complainant, along with Qasim and Shafi, allegedly reached the place of occurrence upon hearing the cries of the minor and witnessed the applicant in a compromising position with the victim. Thus, at this tentative stage, the applicant's involvement is supported by the direct account of the complainant and the accompanying witnesses. The question as to whether their testimony is reliable, whether the alleged previous enmity furnished a motive for false implication, and whether the medical evidence sufficiently corroborates the prosecution case are matters requiring appreciation of evidence during trial and cannot be conclusively determined at the bail stage.

8. The contention regarding delay in lodging the FIR, by itself, does not furnish a ground for grant of bail, particularly when the complainant's version is that the minor was first taken for medical examination before the formal report was lodged. Similarly, the fact that the witnesses are related to the complainant does not, at this stage, render their account inherently unreliable. The affidavits expressing no objection to the grant of bail, allegedly furnished by the complainant and the minor victim, also cannot, by themselves, override the nature and gravity of the accusation or the material presently available on record, particularly when the alleged offence is not compoundable. The question of the applicant's false implication and the evidentiary value of the medical report shall be examined by the learned Trial Court after recording evidence.

9. In view of the foregoing discussion, I am of the tentative opinion that the applicant has failed to make out a case for grant of post-arrest bail, nor do the circumstances presently available bring the case within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. Consequently, the instant Criminal Bail Application is dismissed. Needless to observe that the observations made herein are tentative in nature and shall not prejudice either party at the trial.

JUDGE