IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.2442 of 2026

Applicant	:	Rab Nawaz son of Abdul Rasheed *Through* Mr. Muhammad Murad, Advocate.
Respondent	:	The State *Through* Mr. Qamaruddin Nohri, A.P.G. Sindh duly assisted by Complainant (in person).
Date of hearing	:	03.11.2026
Date of Order	:	03.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** Applicant Rab Nawaz seeks post-arrest bail in a case bearing Crime No.272/2026, registered at Police Station Gulistan-e-Johar, Karachi, for offence under Sections 376/511 PPC, following dismissal of his earlier application by the learned Additional Sessions Judge-VII/Special GBV Court, Karachi East, vide order dated 13.05.2026.

2. The prosecution case, briefly stated, is that on 05.04.2026, the complainant Muhammad Ayoub, upon receiving information from his mother regarding an indecent act allegedly being committed with his minor niece, aged about 9/10 years, proceeded to an under construction house situated near their residence, where the applicant was allegedly found attempting to commit rape upon the minor. He was apprehended by the inhabitants of the locality, beaten and subsequently handed over to the police. The FIR was lodged on the same evening.

3. Learned counsel for the applicant contended that the accusation is false and malicious; the complainant is not an eyewitness to the inception of the occurrence; no medico-legal examination or DNA profiling of the minor was undertaken; nothing incriminating was recovered from the applicant; and material discrepancies exist between the FIR and the victim's statement under Section 164 Cr.P.C. It was further argued that the alleged recovery of a mobile telephone, referred to by the victim, finds no support in the investigation record, whereas the requisite ingredients of attempted rape remain unsubstantiated. He maintained that the case calls for further inquiry under Section 497(2) Cr.P.C. Conversely, learned DPG opposed the application, submitting that the applicant was apprehended at the spot, specifically identified and directly implicated by the minor in her judicial

statement, wherein she attributed to him overt acts constituting the alleged offence.

4. Heard and perused the record. The governing consideration at the bail stage is whether the material collected during investigation furnishes reasonable grounds for believing that the accused has committed the alleged offence or whether his involvement calls for further inquiry. This exercise entails a tentative assessment rather than a meticulous appraisal of evidence or determination of guilt, which remains the exclusive province of the trial Court.

5. Examining the record within these parameters, it transpires that the applicant was apprehended at the place of occurrence and handed over to the police immediately thereafter. More significantly, the minor victim, in her statement recorded under Section 164 Cr.P.C., has specifically implicated the applicant, narrating that while proceeding to purchase an article, she was called by him and forcibly taken inside an under-construction house, where he allegedly restrained her, removed her clothes and subjected her to physical violence. Her raising of an alarm allegedly attracted persons from the neighborhood. These allegations, coupled with the applicant's apprehension at the spot, prima facie constitute incriminating circumstances which cannot be brushed aside merely on the assertion of false implication, particularly when no tangible material suggesting previous animosity or an ulterior motive has been brought on record.

6. The objection that the complainant initially acquired information through his mother is inconsequential to the extent that the prosecution case is independently supported by the victim's direct account. Likewise, the absence of medico-legal examination or DNA profiling, though relevant to evidentiary assessment, is not necessarily fatal where the accusation concerns an attempt rather than completed rape. The omission to recover a mobile telephone and the alleged discrepancies between the FIR and judicial statement require scrutiny at trial; however, at this stage, they do not appear to materially displace the essential accusation. Equally, any alleged procedural deficiency in investigation must be evaluated in relation to its actual effect upon the prosecution case and cannot, without more, be regarded as sufficient to negate the incriminating material otherwise available.

7. As to the ingredients of the offence, the distinction between preparation and attempt is well recognized. Mere intention, however culpable, does

not constitute an attempt unless accompanied by an overt act sufficiently proximate to the commission of the intended offence. Here, the allegations extend beyond preparation to forcible removal of a minor into secluded premises, physical restraint and removal of her clothes. Taken cumulatively, these acts prima facie suggest advancement towards execution of the alleged offence, attracting consideration under Sections 376/511 PPC. Their ultimate legal character and evidentiary sufficiency shall, however, be determined at trial.

8. It is equally settled that the gravity of an accusation cannot independently justify deprivation of liberty; nonetheless, where credible material furnishes reasonable grounds connecting the accused with the alleged offence, the concession of bail cannot be extended merely because some aspects of the prosecution case require evidentiary scrutiny. The submission of the challan and cessation of custodial interrogation, although relevant considerations, do not by themselves create an indefeasible right to bail.

9. In the circumstances, the victim's specific attribution of overt acts, read with the applicant's alleged apprehension at the spot and the contemporaneous registration of the FIR, furnishes reasonable grounds for his involvement in the alleged offence. The discrepancies and investigative deficiencies highlighted by the defence do not, upon tentative assessment, bring the case within the ambit of further inquiry contemplated by Section 497(2) Cr.P.C. The impugned order, therefore, does not warrant interference.

10. Consequently, the bail application is dismissed. However, learned trial Court is directed to proceed expeditiously, preferably on short dates, and accord priority to recording the minor victim's evidence, observing the safeguards prescribed by law. Needless to observe that the foregoing observations are purely tentative, confined to the disposal of this application, and shall not prejudice either party or influence the trial Court while deciding the case on merits.

J U D G E