

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

Criminal Bail Application No. D- 48 of 2025.

(Imran Ali Vs. The State)

Before:

*Mr. Justice Shamsuddin Abbasi,
Mr. Justice Ali Haider 'Ada'*

Applicant: Imran Ali S/o Jounsal by caste Lashari,
through Mr. Abdul Rehman Bhutto, Advocate.

The State: Through, Mr. Aitbar Ali Bullo, Deputy Prosecutor
General, Sindh.

One Ameer Bux appeared on behalf of complainant
Mst.Azeema Lashari.

Date of hearing: 10.09.2025.

Date of Order: 10.09.2025.

ORDER

Ali Haider 'Ada', J:- Through this application, the applicant seeks post-arrest bail in Crime No.05 of 2021 registered at Police Station Kashmore. Initially, the FIR was lodged under Sections 365-B and 452, PPC. However, in the supplementary challan, additional offences under Sections 365-A, 376, 452, 148, and 149, PPC read with Sections 6 and 7 of the Anti-Terrorism Act, 1997, were inserted. Prior to the present application, the applicant had approached the learned Special Judge, Anti-Terrorism Court, Kashmore @ Kandhkot, where his plea for post-arrest bail was declined vide order dated 05.08.2025.

2. The brief facts of the prosecution case are that complainant Mst. Azeema lodged an FIR on 14.01.2021, alleging therein that on 26.12.2020, at about 8:00 am., she was present at her house along with her relative Asghar Ali, her son Imran Ali, and her daughter Rubina aged about 12/13 years. At that time, the accused Imran (present applicant), who was empty-handed, along with co-accused Soomar, Umar, Wali Muhammad, and two unknown persons armed with pistols, entered the house. It is alleged that the present applicant forcibly dragged Rubina outside the house and made her sit in a white-colored car, whereafter the accused party fled away. Due to fear of the

weapons, the complainant party remained silent. However, upon refusal by the accused to return Rubina despite approaches by the complainant party, the FIR was subsequently registered. After registration of the FIR, co-accused Umar and Wali Muhammad alias Shahnawaz were arrested, whereas the present applicant Imran was shown as an absconder. The trial proceeded against the arrested accused, and upon conclusion thereof, they were convicted by the learned trial Court. However, on appeal, the Honourable Division Bench of this Court, vide judgment dated 24.04.2024 passed in Criminal Appeal No.D-20/2023, was pleased to acquit the said co-accused. Subsequently, on 01.06.2025, the present applicant was arrested, whereafter the investigation agency submitted a supplementary challan against him.

3. Learned counsel for the applicant contends that this Court, while deciding the appeal of the co-accused in Division Bench, has already observed that the depositions recorded before the trial Court were contradictory in nature, and even the Nikahnama of the present applicant with the alleged abductee was produced during trial. He further submits that the present applicant was empty-handed at the time of the alleged occurrence, therefore the offence of kidnapping is not made out, particularly when the Nikahnama is already available on record. Learned counsel adds that mere absconsion is not by itself a valid ground to refuse bail when the case otherwise falls within the ambit of further enquiry. He thus prays for grant of post-arrest bail to the applicant.

4. Conversely, learned Deputy Prosecutor General contends that a prima facie case stands established against the applicant, as he has been assigned a specific role. He argues that since the applicant had remained fugitive from law, he cannot claim the benefit of acquittal of co-accused. It is further submitted that at this stage, the applicant is not entitled to the concession of post-arrest bail.

5. Heard the learned counsel for the parties and examined the material available on record.

6. The record reflects that the co-accused, whose trial was initially conducted, were convicted and sentenced by the learned trial Court. However, upon appeal, this Court, vide judgment dated 24.04.2024, was pleased to acquit them. It has also come on record that the acquittal was based

on extending the benefit of doubt to the said co-accused. It is a well-settled principle of law that the benefit of doubt is not only to be extended at the stage of final judgment but can also be considered at the pre-trial or bail stage. Therefore, when the prosecution evidence has already been found doubtful by a Division Bench of this Court in respect of similarly placed co-accused, the present applicant is also entitled to the same consideration at this stage. In this context, reliance is placed upon the case of *Mazhar Ali v. The State* (2025 SCMR 318), wherein Honourable Apex Court had held that:

Two co-accused of the petitioner who were also identified by the alleged eye-witnesses during their identification parade had already been acquitted by the Trial Court---Same prosecution evidence had already been disbelieved against co-accused persons by the Trial Court and their case was not distinguishable from the case of the petitioner except alleged abscondence of the petitioner---Petition was converted into appeal and allowed and the petitioner was granted post-arrest bail.

7. It is by now a well-settled principle of law that the benefit of doubt is not restricted only to the stage of final judgment, but the same can also be considered and extended at the stage of bail, if the circumstances of the case so justify. The Hon'ble Supreme Court has consistently held that where the prosecution evidence appears doubtful or creates reasonable doubt in the mind of a prudent person, the accused becomes entitled to such benefit even at the pre-trial stage. Reliance is placed upon the case of *Naveed Sattar v. The State* (2024 SCMR 205).

8. The consistent view of the Superior Courts is that absconsion alone is not a valid ground for dismissal or refusal of bail, particularly when the matter otherwise falls within the ambit of further inquiry. Even on merits, if the case is found to be doubtful, the accused is entitled to the concession of bail. Reliance in this regard is placed upon the case of *Mazhar Ali v. The State* (*supra*).

9. Moreover, there is also an unexplained delay in the registration of FIR, which has not been plausibly justified by the prosecution. It is indeed surprising that when a female was allegedly shown as abductee, instead of promptly approaching the law enforcement agency for stern action, the complainant party chose to approach the accused for her return, and only thereafter lodged the FIR. Such conduct creates serious doubt upon the

veracity of the prosecution case. In this context, reliance is placed upon the case of *Jamaluddin v. The State* (2023 SCMR 1243).

10. In view of the foregoing reasons and discussion, the applicant is held entitled to the concession of post-arrest bail. Accordingly, the applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a personal bond in the like amount, to the satisfaction of the learned trial Court. Needless to mention, the observations made hereinabove are purely tentative in nature and shall not prejudice or influence the learned trial Court, which shall decide the case strictly on its own merits in accordance with the evidence and material brought before it during trial.

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