

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
 Crl. Bail Application No. S-120 of 2025
 (Abdul Hafeez and Asif Gugaje Vs. The State)

Date	Order with signature of Judge
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- 1. For Orders on office objection.
- 2. For hearing of bail application.

ORDER.
 27-03-2025.

Mr. Saifullah Soomro, advocate for the applicant.
 Syed Sardar Ali Shah Rizvi, Additional P.G for the State.
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Ali Haider 'Ada', J. The applicants seek their pre-arrest bail in crime number 63/2024, registered at police station Dad Laghari on 10-10-2024, while the incident mentioned in FIR as 05-10-2024. First, the applicants approached before the learned Sessions Judge Ghotki, as the same bail entrusted to Learned Additional Sessions-II Ghotki but was unsuccessful, therefore approached before this Court.

2. The prosecution believes in the story that daughter of complainant namely Mariyam was alone at home as when the complainant party reached to near of house, heard cries of his daughter when attracted wherein saw that applicants/accused are committing rape with his daughter as on seen the complainant party they escaped well. Firstly, complainant awaited for notable person of vicinity and after his advice lodged FIR.

3. Learned counsel for applicants submit that there is delay in registration of FIR as the delay is almost five days. Further learned counsel adds that on 07-10-2024 the medical examination of alleged

victim was conducted but the same is not supported with ocular set, he further relied on DNA report which is also negative in nature. On testimony of victim, he adds that in 164 Cr.P.C statement the victim narrated different story and also did not identify the applicants before the Magistrate, he relied upon cases reported in 2023 SCMR 397, 2023 MLD 1072, 2022 PCRLJ Note 87, 2021 PCRLG Note 29 and 2021 PCRLJ 1209 and prays for confirmation of bail.

4. The complainant Abdul Hafeez Laghari is present and filed his no objection affidavit that he has no objection if their bail be confirmed. The affidavit is taken on record.

5. Learned Additional PG contends that the chemical report is the only piece of evidence in support of the entire case, He submits that, since the complainant has already resolved his issue with the accused, then applicants can now proceed to present their case in their favour before Trial Court.

6. Heard arguments and perused the material available on record.

7. It's important to note that the FIR was registered after the delay of five days and no explanation has been given. It's quite astonishing that the FIR was registered on 10/10/2024, while the victim had already appeared before Police and got letter and then examined by Medical Officer on 07/10/2024. The FIR was lodged with delay of three days after the medical examination and 164 Cr.P.C statement was recorded after a delay of more than three

months, which was recorded on 15-02-2025, the alleged victim categorically denied the version of FIR, as she stated that the present applicants did not commit rape with her.

8. The medical evidence was absolutely clear, there was no sign of violence; and a vaginal examination found everything was normal, so far the DNA report is concerned the final conclusion opined that vaginal swab samples and cloths of victim does not contain any Male DNA/semen stains / sperms fractions. The samples which were sent to the Chemical Examiner on 11/10/2024, such contained an internal vaginal cotton swab of the victim, resultant human semen was detected but the samples from applicants were not sent for match purposes.

9. In view of foregoing reasons, the interim pre-arrest bail already granted to the applicants/accused named above is confirmed on same terms and conditions.

J U D G E

Nasim/P.A