

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 812 of 2025

Applicant : Muhammad Kashif son of Muhammad Rehman
Through Mr. Bakht Azam, Advocate

Respondent : The State
Through Ms. Rahat Ahsan, Addl. PG Sindh a/w
Mr. Fahim Hussain, DPG a/w SIP Saeed
Maroof of PS PIB Colony Karachi.
Mr. Akbar Zameen Khattak, advocate for
complainant.

Date of hearing : 12.05.2025

Date of order : 19.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Muhammad Kashif seeks post-arrest bail in a case bearing crime No. 18/2025, offence under section 376/511 PPC of P.S PIB Colony, Karachi. Previously bail application of applicant was declined vide order dated: 18.02.2025 by the learned Additional Sessions Judge-VII Karachi East.

2. The prosecution alleges that on 19.01.2025, at about 0400 hours, the complainant received a call from his neighbor, Abdul Hadi who informed him that the applicant Muhammad Kashif was caught allegedly attempting to commit rape upon the complainant's 4-year-old daughter, Anabia, in a street behind their residence. The alleged eye-witness claimed to have seen the girl's shalwar already removed and the applicant in the act of undressing. The applicant allegedly pleaded with him not to disclose the matter and sent the girl home. The complainant states that upon further inquiry from his daughter, she stated the applicant gave her a toffee and lured her to the location. The applicant was then allegedly apprehended by agitated residents of the locality, beaten, and later rescued by his uncle who assured their departure from the neighborhood.

3. Learned counsel for the applicant primarily contended that there is a delay of two days in lodging the FIR, which the prosecution has failed to explain. He further submitted that Section 376 PPC has been misapplied in the present case, warranting further inquiry. He also pointed out that the incident occurred in a densely populated area, yet no independent witnesses

from the locality have been presented by the police, which casts doubt on the prosecution's narrative. Additionally, he argued that there is no direct or circumstantial evidence to establish the connection of the present applicant with the commission of the offence under Sections 376/511 PPC. In support of his arguments, he relied on the case law reported in 2017 SCMR 366.

4. On the other hand, learned counsel for the complainant and learned APG for the State opposed the bail application, asserting that the applicant is specifically named in the FIR with a defined role. They further argued that one Abdul Hadi caught the applicant in the act of committing an offence punishable under Section 376 r/w Section 511 PPC and is an eyewitness to the incident, clearly implicating the applicant in his statement recorded under Section 161 Cr.P.C. by the investigating officer. They also referred to the medical examination report of the victim, which supports the complainant's version. Learned counsel for the complainant additionally argued that the bail application is premature, as the challan has not yet been submitted by the investigating officer. They ultimately prayed for the dismissal of the bail application.

5. In light of the arguments presented, the facts of the case, and the available evidence, I have carefully considered the bail application. While the prosecution has provided a narrative supported by a witness, Abdul Hadi, and a medical examination report, the delay in lodging the FIR, the lack of independent witnesses from the locality, and the reliance on a jirgah consultation prior to filing the FIR raise significant concerns about the veracity of the allegations. The fact that the complainant opted to first hold a jirgah before lodging the FIR introduces the possibility of a concocted or embellished version of events. Additionally, the absence of independent corroboration and the failure to provide direct or circumstantial evidence linking the applicant to the commission of the offence further complicates the matter.

6. Although the charge under Section 376 r/w section 511 PPC is not much serious but despite the same the case requires thorough examination, the possibility of fabrication and the lack of conclusive evidence at this stage necessitate a cautious approach. Given these considerations, I find it appropriate to grant bail to the applicant at this juncture, while placing conditions that ensure his cooperation with the trial process. Case against

the accused called for further inquiry as contemplated in section 497(2) Cr.P.C. Accordingly, applicant is admitted to bail, subject to furnishing solvent surety in sum of Rs.200,000/- (Rupees Two Hundred Thousand Only) along with P.R bond of like amount to the satisfaction of learned trial court. Needless to say that the above assessments are tentative in nature and shall not effect the merits of trial.

J U D G E