

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No. 568 of 2025

Applicant : i. Muhammad Ullah  
ii. Imran Khan  
iii. Ramzan Khan, all sons of Abdullah Khan,  
Through Mr. Aswad Ali Chohan, advocate

Respondent : The State  
through Ms. Rubina Qadir, DPG

Date of hearing : 13.05.2025.

Date of order : 23.05.2025.

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** –Applicants Muhammad Ullah, Imran Khan, and Ramzan Khan seek pre-arrest bail in a case bearing crime No.79/2025, registered at P.S. Peerabad, Karachi, offence under Sections 354, 496-A, 365-B, 364-A, & 34 PPC. Their earlier bail plea was declined by the learned Additional Sessions Judge-X, Karachi West, vide order dated 28.02.2025.

2. According to prosecution story set forth in the FIR, lodged by Mst. Jameela on 20.02.2025, her daughter, Mst. Husna, aged about 16 years, was engaged to Muhammad Ullah. Subsequently, it came to their knowledge that Muhammad Ullah was already married and a handicapped person, hence the proposal was declined. On the same day, while Mst. Husna was present at her grandmother's (Mst. Nagina's) house, at about 2:00 p.m., Muhammad Ullah along with his brothers Imran, Ramzan and two unknown women forcibly entered the house, abused and beat the inmates, tore the complainant's clothes, and abducted Mst. Husna, Mst. Gul Bibi, and Mst. Nagina in a vehicle.

3. Learned counsel has argued that the Nikah between applicant Muhammad Ullah and Mst. Husna was solemnized on 10.12.2023 with the consent of her family. The complainant party was not permitting rukhsati and, upon learning that the girl had left their house voluntarily, registered a false case. It is contended that Mst. Husna and Mst. Nagina have recorded their statements under Section 164 Cr.P.C., which, according to learned counsel, do not support the version of the FIR and differ inter se. Furthermore, the Nikahnama is not denied, and no overt act of abduction is attributed specifically to any of the male accused in the said statements. The learned

counsel has placed reliance on *2017 SCMR 2060*, *2016 SCMR 1619*, *2023 SCMR 884*, and *2020 SCMR 14* to argue that where a case is of further inquiry or allegations are exaggerated or improvements are apparent, the benefit of bail may be extended.

4. Conversely, learned APG has opposed the application on the ground that the FIR contains serious allegations including abduction and sexual offence; that Mst. Husna in her subsequent statement recorded on 25.02.2025 has alleged forcible Nikah and absence of free will; and that her minority renders such consent immaterial in terms of Section 365-B PPC. Learned APG submits that the nature of allegations and the role attributed to the applicants disentitle them from discretionary relief.

5. I have heard the learned counsel for the parties and carefully examined the available record. The allegations set forth in the FIR are of a grave nature, involving unlawful entry into the complainant's house, acts of violence, and the alleged forcible abduction of three women, including Mst. Husna. While the initial statement of the alleged abductee recorded under Section 164 Cr.P.C. appears to suggest voluntary departure, she later clarified her position, implicating all three accused in the commission of the offence. The statement of Mst. Nagina also refers to Mst. Nasreen Bibi (mother-in-law of accused Muhammad Ullah), though the names of the male intruders were not explicitly mentioned, a fact noted but not conclusive at this stage.

6. The critical aspect that emerges from the record is the undisputed minority of Mst. Husna, who is stated to be aged about 16 years. In terms of Section 365-B PPC, which criminalizes the act of kidnapping a woman for forced marriage or illicit intercourse, the consent of a minor carries no legal sanctity. The FIR alleges that she was enticed or taken away forcibly, and her later judicial statement, wherein she states that the marriage was contracted under coercion, further strengthens the prosecution's case. The Nikahnama produced by the defense showing the girl's age as 13 years further undercuts the claim of voluntariness. Offences under Sections 364-A and 365-B PPC fall within the prohibitory clause of Section 497(1) Cr.P.C., and the claim of consent, being legally irrelevant in the case of a minor, does not justify pre-arrest protection.

7. The legal position is well settled that where the abductee is below the age of sixteen years, her consent is immaterial. The so-called Nikah between accused Muhammad Ullah and Mst. Husna, even if presumed to be valid for

argument's sake, does not furnish a lawful defence to the charge of kidnapping. The judicial consensus reflected in multiple binding precedents reinforces that a minor's removal from lawful guardianship, irrespective of her supposed willingness or marital status, constitutes kidnapping.

8. In continuation of the above, as held in *Abdul Hamid v. The State* (PLD 1962 W.P. Karachi 886), *Fozia Petrik v. The State* (2009 MLD 1350), and *Abdul Khaliq v. The State* (1986 SCMR 35), the act of "taking" a minor from the custody of a lawful guardian constitutes kidnapping under Section 361 PPC, regardless of inducement or the minor's mental attitude. The mere fact that a Nikah was performed does not immunize the accused from prosecution where the element of minority is present. Therefore, the actions of the accused prima facie fulfill the ingredients of the charged offences, and the judicial threshold for granting pre-arrest bail is not met.

9. As regards the case law relied upon by the applicants' counsel, including 2024 SCMR 14, 2023 SCMR 884, 2017 SCMR 2060, and 2016 SCMR 1619, the factual matrix of each is distinguishable. In those cases, mitigating factors such as prolonged delay in lodging the FIR, inconsistent evidence, or the presence of family disputes rendered the accusations doubtful. In contrast, the present FIR was lodged promptly, the medical evidence supports the allegation of minority, and the subsequent statement under Section 164 Cr.P.C. points to coercion, thus tilting the balance in favour of the prosecution at this stage.

10. None of the precedents cited overcome the central legal hurdle confronting the applicants, the minority of the alleged abductee. The prompt registration of FIR, the nature of the allegations, and the seriousness of the offences, particularly in light of Sections 364-A and 365-B PPC, militate against the grant of extraordinary discretionary relief under Section 498 Cr.P.C.

11. It is therefore concluded that the case of all three applicants, namely Muhammad Ullah, Imran Khan, and Ramzan Khan, is devoid of any distinguishing features that would justify confirmation of interim pre-arrest bail. Their alleged involvement in the commission of non-bailable, heinous offences involving the abduction and coerced marriage of a minor renders them undeserving of equitable relief at this stage.

12. Accordingly, the interim pre-arrest bail granted to the applicants Muhammadullah, Imran Khan, and Ramzan Khan is hereby recalled, and their bail application is dismissed. Needless to mention, the observations made herein are tentative in nature and shall not prejudice the trial court in deciding the matter on merits.

**J U D G E**