

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-226 of 2025

Applicant: Arif Ali *through* Mr. Waheed Ali Samtio, Advocate
Complainant/ L.Hrs. Sajid Ali *through* Hassan Irshad Dharejo, Advocate
Respondent: The State, *through* Mr. Mansoor Ahmed Shaikh,
Deputy Prosecutor General
Date of hearing: 14.7.2025
Date of decision: 14.7.2025

O R D E R

Muhammad Jaffer Raza, J.- Through captioned criminal bail application, applicant Arif Ali son of Aazam Ali, by caste Kandhro, seeks post-arrest bail in FIR No.171/2024, registered at P.S Kumb, District Khairpur, for the offence punishable under Section 365-B, PPC. He had approached the learned Additional Sessions Judge-IV/Special/ Gender Based Violence Court, Khairpur, with the same plea, but it was declined, vide order dated 07.11.2024.

2. The prosecution case in a nutshell is that on 09.9.2024, at 0300 hours the applicant along with his companions on the point of pistols kidnapped complainant's daughter Miss Rubab.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in this case. He also argued that there is an unexplained delay of four days in the lodging of the FIR, which casts serious doubt on the veracity of the prosecution story. He further submits that co-accused Habibullah and Zafar Ali have already been granted by the trial court and the role of the present applicant is identical to that of co-accused Habibullah. As such on the rule of consistency, the applicant is also entitled for concession of bail. He further submits that the statement of victim recorded under section 164 Cr.P.C does not specify the ingredients of section 365-B PPC. Moreover, the applicant has been incarcerated since 17.9.2024 and is no longer required by the police. In

these circumstances, the case against the applicant calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Lastly he prays that the applicant may be admitted to post-arrest bail. In support of his contentions learned counsel placed reliance on the case of *Abdul Nabi Buriro vs. The State* (2024 MLD 934).

4. Learned DPG opposed the bail application contending that the name of the applicant transpires in the FIR and victim in her 164 Cr.P.C statement has assigned specific role of abduction to the applicant.

5. Learned counsel for the complainant adopted the arguments advanced by learned DPG and submits that he has already filed application for cancellation of bail granted to co-accused Habibullah and Zaffar, which is pending adjudication. On specific query by me, he admitted that ingredients of section 365-B, PPC are not made in the statement of victim, recorded u/s 164 Cr.P.C. However, he submits that same may be determined after recording evidence. He prayed for dismissal of bail application.

6. I have heard all the learned counsel for the respective parties and perused the record available before me.

7. Admittedly, there is an unexplained delay of four days in lodging of the FIR, which raises serious doubts about the prosecution's version and suggests the possibility of due deliberation or consultation. The FIR has been lodged u/s 365-B, PPC, however, ingredients of section 365-B, PPC are missing. The alleged abductee Mst. Rubab in her statement recorded u/s 164 Cr.P.C has stated that she was abducted and demand of 60 lacs was made. It is also pertinent to mention here that neither she was recovered from the possession of the accused nor produced by the police before the Magistrate for recording her 164 Cr.P.C..She herself appeared before the Magistrate through an Advocate for recording her 164 Cr.P.C statement. In such circumstances, the case against the present applicant clearly falls within the ambit of further inquiry as contemplated under Section

497(2) Cr.P.C. The investigation has been completed and the challan has been submitted, hence, the applicant is no longer required for investigative purposes.

8. In view of the above circumstances, the applicant has successfully made out a case for the grant of post-arrest bail. Accordingly, this bail application is allowed, and the applicant is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand) and P.R bond in the like amount, to the satisfaction of the learned trial court. Trial court is directed to proceed with the matter expeditiously and concluded the same within three months from today.

9. Needless to mention that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

JUDGE

Sulemen Khan/PA