

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
MIRPURKHAS.

**Criminal Bail Application No.S-185 of 2025**

Applicants: Rincho and Pancho through Mr.  
Om Parkash H. Karmani, Advocate.

Respondent: The State through Mr. Dhani Bakhsh  
Mari, Assistant Prosecutor General,  
Sindh.

Complainant: Rano (present in person) through  
Mr. Kanji Mal Meghwar, Advocate for  
complainant.

Date of hearing : **04.08.2025**

Date of Order: **04.08.2025**

**O R D E R.**

**AMJAD ALI SAHITO, J:-** Through instant bail application, the applicants/accused above named seek their pre-arrest bail in Crime No.29 of 2025, under sections 376 506(ii) & 34 P.P.C, registered at P.S Mithi, after their bail plea was declined by the learned Additional Sessions Judge-II, Tharparkar at Mithi vide order dated 09.07.2025

**2.** The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

**3.** Learned counsel for the applicants/accused contends that the applicants are innocent and have been falsely implicated in the instant case due to ulterior motives; that the FIR was lodged with an unexplained and inordinate delay of sixteen (16) days; that the DNA report does not support the prosecution's version and the medical certificate also fails to corroborate the allegations made by the complainant; that no eyewitnesses to the alleged incident are available; and that the applicants have been falsely implicated due to a prevailing community dispute. In conclusion, learned counsel prayed for the confirmation of interim pre-arrest bail earlier granted to the applicants.

**4.** Conversely, Mr. Kanji Mal Meghwar, learned counsel for the complainant, filed his Vakalatnama and opposed the confirmation of interim bail. He submitted that the applicants/accused have been specifically nominated in the FIR. He further argued that applicant/accused Pancho Bheel committed rape upon the victim, Mst. Jamna, who, in her statement recorded under Section 161 Cr.P.C, specifically implicated the said accused. The victim reiterated these allegations in her subsequent statement recorded under Section 164 Cr.P.C. Learned counsel further submitted that the applicants/accused are not entitled to the extraordinary relief of pre-arrest bail and prayed for its dismissal.

**5.** Learned Deputy Prosecutor General (D.P.G) adopted the arguments advanced by the learned counsel for the complainant and opposed the confirmation of bail.

**6.** I have heard the learned counsel for the respective parties and have perused the material available on the record.

**7.** As per the prosecution's case, the applicants/accused have been specifically nominated in the FIR with distinct and attributed roles. It is alleged that on the date of incident, accused Rincho along with Pancho unlawfully entered the complainant's hut (Chonra), whereupon accused Pancho overpowered the victim, Mst. Jamna, and committed forcible sexual intercourse with her. The victim, in her statement recorded under Section 161 Cr.P.C, categorically implicated accused Pancho. Furthermore, she was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C, in which she once again fully implicated accused Pancho for the commission of zina.

**8.** With regard to the objection raised by learned counsel for the applicants concerning the 16-day delay in the registration of the FIR, it is noted that the complainant, in the FIR, has explained that he was not present in the village at the time of the incident and upon his return, the victim disclosed the matter to him, after which the FIR was

lodged. Hence, the delay appears to be reasonably and satisfactorily explained.

**9.** The argument advanced by learned counsel for the applicants concerning the negative medical report has also been considered. It is pertinent to observe that the victim was examined by the Women Medical Officer on 27.03.2025, while the incident occurred on 09.03.2025. The DNA samples were forwarded to the Forensic Science Laboratory (FSL) on 14.04.2025. This considerable delay adversely affects the probative value and reliability of the biological evidence. The offence alleged against the applicant falls within the prohibitory clause of Section 497 Cr.P.C. Additionally, the applicant Pancho have not alleged any specific mala fide or ill-will on the part of the complainant. In this context, reliance is placed on the judgment of the Hon'ble Supreme Court of Pakistan reported as **2019 SCMR 1129**, wherein it was held that:

*"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."*

**10.** At bail stage, only tentative assessment is to be made. Sufficient incriminating material is available on record to prima facie connect the applicant/accused Pancho for committing the zina with the Sht. Jamna. The learned counsel for the applicants has failed to establish a case warranting the confirmation of interim pre-arrest bail. Accordingly, the bail application filed on behalf of accused

Pancho stands **dismissed**. The interim bail granted to the applicant Pancho vide order dated **14.07.2025** is hereby **recalled**. However, the role assigned against the applicant/accused Rincho was only that he was holding one hatchet outside the Chonwra, therefore, the interim bail of the applicant/accused Rincho is hereby confirmed on same terms and condition.

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

JUDGE

Adnan Ashraf Nizmani