

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1664 of 2025

Muhammad Shahid..... Applicant/Accused

Versus

The State.....Respondent

Date of Hearing : 14.10.2025

Date of Order : 14.10.2025

For the Applicant : Mr. Muhammad Akram, Advocate.

For the Complainant : Mr. Anwar Ali Shah.

For the State : Mr. Muhammad Noonari, APG.

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ORDER

TASNEEM SULTANA, J: Through this bail application the applicant Muhammad Shahid son of Allah Jawaya seeks pre-arrest bail in Crime No.83 of 2025, registered at Police Station New Town, Karachi, under Section 354/452, PPC. Earlier his bail plea was declined by the learned VIIth Additional District & Sessions Judge, Karachi East vide order dated 05.06.2025; he has now approached this Court for pre-arrest bail and interim pre-arrest bail was granted to them vide order dated 26.06.2025. The matter is now fixed for confirmation or otherwise.

2. Brief facts of the prosecution case as narrated in the FIR are that the complainant used to work as housemaid. On 16.02.2025 at 0700 hours, while she was alone in her house, the applicant unlawfully entered her house and attempted to commit illicit act. Upon her resistance, the applicant/accused scuffled with her and torn her shirt from the front thereby exposing her body and caused her humiliation and loss of her honor.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that the applicant/accused has nothing to do with the alleged crime; that the FIR was lodged with malafide intention and due to enmity between the parties as the brother of the complainant was married with daughter of the applicant but subsequently the marriage was dissolved by filing a

suit for dissolution of marriage in District Rahim Yar Khan; that there is no private witness to support the version of the complainant; that the alleged offence does not fall within the prohibitory clause of Section-497(2) Cr.P.C; that investigation has been completed and challan submitted; that no recovery remains pending and the applicant's custody is no longer required; that in view of the above, the matter requires further inquiry.

4. Conversely, learned counsel for the complainant opposes the plea and submits that the accused has been nominated in the FIR with specific role; that the offence was committed within the house/ boundary, therefore, no question of association of private witnesses arises.

5. Learned Assistant Prosecutor General also opposes the bail plea while adopting the arguments of learned counsel for the complainant and further submits that the applicant/accused after obtaining interim pre-arrest bail from the trial Court has joined the investigation, however, after obtaining bail from this Court, he had not joined the investigation, as I/O of the case has been retired and investigation yet not been entrusted to any other I/O.

6. Heard. Record perused.

7. It appears that the complainant has alleged that the present applicant entered into her house unlawfully with criminal intent; however, the veracity of these allegations shall be determined only after recording of evidence at trial.

8. The record further reveals that the sister of the present applicant had earlier filed a suit for Khulla (dissolution of marriage) against the son of the complainant before the learned Family Court at Rahim Yar Khan, which culminated in the dissolution of marriage. This circumstance clearly establishes previous enmity and strained relations between the parties arising out of a domestic and family dispute.

9. Moreover, the offence under Section 354 PPC is bailable, while the punishment provided for Section 452 PPC is seven (07) years imprisonment, which does not fall within the prohibitory clause of Section 497(1) Cr.P.C. It is a well-settled principle that in such cases,

grant of bail is a rule and refusal is an exception, unless exceptional circumstances are shown. Prima facie, no such circumstance is evident in the present case. In this regard, reliance is placed upon the judgment of the Honourable Supreme Court of Pakistan in “Muhammad Tanveer v. The State and another” (PLD 2017 SC 733), wherein it was held that:

“Once the Court has held in categorical terms that grant of bail in offences not falling within the prohibitory clause of Section 497, Cr.P.C. shall be a rule and refusal shall be an exception, then the Courts of the country should follow the same principle in its true letter and spirit because consistency in law declared by the Court ensures the rule of law and confidence of Courts throughout the country including the Special Tribunals and Special Courts.”

10. In view of the above, by a short order dated 14.10.2025, the interim pre-arrest bail granted to the applicant, vide order dated 26.06.2025 was confirmed on the same terms and conditions and these are the reasons for the same.

11. The applicant shall attend the trial regularly and shall not misuse the concession of bail; any violation shall entail cancellation of bail according to law. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul