

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

*Criminal Bail Application No.S-309 of 2026.
[Nazar Hussain Jiskani and others v. The State]*

Fresh Case

1. For orders on MA No.2187/2026
2. For orders on office objection at flag 'A.'
3. For orders on MA No.2188/2026
4. For the hearing of pre-arrest bail application.

06.04.2026.

Mr. Ashique Hussain Jiskani, Advocate for the Applicants

ORDER

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Ali Haider 'Ada' J.-Through this criminal bail application, the applicants, namely Nazar Hussain, Jinsar Ali, and Muhammad Ali @ Muhammad Faqeer, seek pre-arrest bail in Crime No. 238 of 2025, registered under Sections 506/2, 377-B, and 34 P.P.C at Police Station Kumb, District Khairpur. It is pertinent to note that their earlier bail application was dismissed by the learned Additional Sessions Judge-IV, Khairpur, vide order dated 30.03.2026.

2. Briefly stated, the prosecution case is that on 18.11.2025, the complainant, Barkat Ali, lodged an FIR at Police Station Kumb, District Khairpur, alleging that Miss Fiza Ali, aged about 12/13 years, and Miss Urooj Fatima, aged about 8/9 years, who are his maternal nieces and students of Sachal Model Higher Secondary School, Kumb, were present in the street outside their house on 19.09.2025. During that time, the complainant and his cousins reportedly heard cries and, upon coming outside, allegedly saw the present applicants. It is alleged that the applicants, at gunpoint, forcibly restrained the minors, compelled them to view certain photos and videos on a mobile phone, and harassed them. Upon the arrival of the complainant party, the accused persons allegedly fled the scene. Thereafter, the victims reportedly disclosed that the

applicants had threatened them and attempted to coerce them into forming relations with them.

3. Subsequently, the complainant approached the concerned Court by filing an application under Sections 22-A and 22-B Cr.P.C. for the registration of the FIR, which was allowed vide order dated 14.11.2025, pursuant to which the present FIR was registered.

4. Learned counsel for the applicants contends that the applicants are innocent and have been falsely implicated in the present case. He argues that there is an inordinate and unexplained delay of approximately two months in lodging the FIR, which casts serious doubt on the veracity of the prosecution's case. He further submits that the applicants are closely related, being a father and his sons, and it is highly improbable that they would commit such an offence together. He also contends that the provisions of Section 377-B P.P.C. have been misapplied by the police, and that the applicability of the said provision can only be determined after recording evidence at trial. It is further alleged that the police, in collusion with the complainant, have falsely implicated the applicants in order to settle a score. Learned counsel, therefore, prays that the applicants be admitted to pre-arrest bail.

5. Heard. Record perused.

6. The prosecution's case is that the applicants, who are close relatives of the complainant and the minor victims (aged 12 and 9), abused their position of trust by posing as protective 'uncles.' It is alleged that the applicants intentionally exposed both victims, who are students in secondary school to explicit pornographic material on a mobile device. Following this, the applicants reportedly used threats and coercion to facilitate the commission of sexual assault against the minor girls. The

acts constitute a grave violation of the victims' safety and a significant breach of familial trust.

7. Admittedly, the applicants have been nominated in the FIR. The offence with which they are charged falls within the prohibitory clause of Section 497, Cr.P.C. Although there is a specific allegation against the present applicants, it appears that they, in good faith, committed the act with the intention to mislead or influence the minors, thereby establishing a chain of circumstances that militates against the grant of bail. Reliance is placed on the case of **Abdul Manan vs. The State (2023 P.Cr. L.J 73)**.

8. In the case of **Arsalan Khan vs The State 2025 YLR 1693**, it was held that:

7. Sections 377A and 377B, introduced through the Criminal Law (Second Amendment) Act of 2016, establish the offence of sexual abuse. Section 377A defines sexual abuse as any act or series of acts involving the employment, use, coercion, persuasion, inducement, enticement, or forceful engagement of a person in sexually explicit conduct when the victim is under eighteen years of age. Such conduct includes, but is not limited to, fondling, stroking, caressing, exhibitionism, voyeurism, or any other form of obscene or sexually explicit behavior, whether real or simulated. Notably, this provision applies regardless of the victim's consent and covers both standalone acts and those occurring in conjunction with other offences. Meanwhile, Section 377B prescribes the penalties for individuals convicted of sexual abuse as defined under Section 377A. Given that the Applicant is, prima facie, linked to the charges under Sections 377, 511, and 377A of the Pakistan Penal Code, 1860, read in conjunction with Section 377B, the Applicant is not eligible for bail at this current stage. In a parallel legal context, the Islamabad High Court adjudicated in Nauman Hussain v. The State and Another (2022 MLD 958), wherein it was authoritatively observed that: "Even otherwise, under section 377-A, P.P.C, in order to constitute offence of section 377-B, P.P.C., no actual penetration is required and the offence is committed even where there is stroking, caressing, exhibitionism, etc. and the modes exhaustive. Moreover, report by the Director, FIA is categorical that offence under section 377,

P.P.C. has been committed. For what has been stated above, the instant petition is without merit and is accordingly dismissed".

9. Furthermore, Pre-arrest bail is a discretionary relief. The grant of bail before arrest is an extraordinary remedy, to be allowed only in exceptional circumstances, primarily to protect innocent persons from victimization through abuse of the law for ulterior motives. However, once it comes on record that the applicants are involved in the commission of the offence, such relief cannot be extended as a matter of course. In the present case, the applicants are specifically alleged to have participated in the commission of the offence, being relatives who enticed and misled the minor girls. Therefore, they are not entitled to the concession of pre-arrest bail. Reliance is placed upon the case of **Rana Muhammad Arshad versus Muhammad Rafique and another (PLD 2009 Supreme Court 427)**.

10. In view of the foregoing, the applicants have failed to make out a case for the grant of pre-arrest bail; accordingly, the bail application filed by the applicants is hereby dismissed.

JUDGE