

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 18 of 2022**

Applicant : Muhammad Saleem s/o Allah Bux,  
through Mr. Muhammad Akram, advocate

Respondent : The State, through Mr. Faheem Hussain  
Panhwar, Deputy Prosecutor General, Sindh

Complainant : Ghulam Nazik, through Mr. Shamsuddin  
Chandio, Advocate

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Date of hearing : 26.01.2022  
Date of order : 26.01.2022  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant criminal bail application, applicant/accused Muhammad Saleem S/o Allah Bux seeks post-arrest bail in Crime No.1304/2021, registered at P.S. Site Super Highway Karachi under sections 365-B/376, P.P.C. His earlier application for the same relief bearing No.5156/2021 was heard and dismissed by the learned Additional Sessions Judge-V, Malir-Karachi, vide order dated 03.12.2021.

2. Briefly stated the facts of the case are that on 15.09.2021 complainant Ghulam Nazik lodged aforementioned F.I.R., stating therein that on 13.09.2021 at 0100 hours he alongwith his family was sleeping in his house when at about 0500 hours he woke-up and saw that his daughter, namely, Iqra aged about 15/16 years, was not available at house. He remained in her search and later he came to know that one Muhammad Saleem S/o Allah Bux abducted his said daughter with intention to commit zina on her.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case; that there is an unexplained delay of two days in lodging of F.I.R.; hence, deliberation and consultation for implication of the applicant in false F.I.R. cannot be ruled out; that just after one hour of the lodging of F.I.R. the alleged abductee was

recovered and the applicant was arrested by the police; that there are contradictions in statements of alleged abductee recorded under section 161 and 164 Cr.P.C.; that the police after investigation has submitted the challan against the applicant who is confined in judicial custody since the date of his arrest; that the parties have settled their dispute outside the Court and the complainant has no objection on the grant of bail to applicant as he does not want to proceed with the matter anymore and such Affidavit of No Objection has been filed by him before this Court.

4. Learned counsel for the complainant affirms the fact that the complainant has forgiven the applicant and he has no objection to the grant of bail application.

5. Learned Deputy Prosecutor General; however, raises objection to the grant of this bail application on the ground that sufficient material is available to connect the applicant with the commission of alleged offence which is not compoundable.

6. Heard the learned counsel for the parties and perused the material available on record.

7. It appears from the perusal of the record that the F.I.R. of the incident was lodged by the complainant with delay of two days which is conceivable as normally in such like cases the aggrieved persons at the first instant try to make search of the abductee themselves for the honour of their families. Even delay in lodging of F.I.R. *ipso facto* is no ground for the grant of bail. The alleged abductee was recovered from the possession of the applicant and she was produced before the Woman MLO for her medical examination. As per MLC, the abductee is 16 years of age and she is not virgin. As per Forensic DNA Serology Analysis Report, the DNA profile obtained from sperm

fraction of vaginal swab (for DNA) of the abductee is a mixture of at least two individuals. She and the applicant cannot be excluded as possible contributors to mixed DNA sample. Besides, the alleged abductee has given full account of the incident in her statement recorded under Section 164 Cr.P.C. by the learned VIIIth Judicial Magistrate Karachi-Malir by stating that, on 13.09.2021, the applicant on the strength of knife took him to his sister's home at New Karachi where he committed zina on her for three days. So far the filing of Affidavit of No Objection by the complainant is concerned, it may be observed that the alleged offence is not compoundable; therefore, the same carries no weight. Sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence which carries punishment with death or imprisonment for life; hence, the same falls within the prohibitory clause of Section 497(1) Cr.P.C. No ground for further inquiry has been made out. I; therefore, reject this CrI. Bail application.

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

9. Above are the reasons of my short order dated 26.01.2022.

**JUDGE**