

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,**  
**HYDERABAD**

Criminal Bail Application No.S-441 of 2021

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DATE

ORDER WITH SIGNATURE OF JUDGE

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For hearing of main case.

**16.07.2021.**

Mr. Noor-ul-Amin Sipio, Advocate for the applicant.  
Ms. Sobia Bhatti, A.P.G for State.  
Mr. Naseer A. Narejo, Advocate along-with the complainant.

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**Irshad Ali Shah J.**-It is alleged that the applicant by committing trespass into the house of complainant Mst. Zainab committed rape with her, for that the present case was registered.

2. The applicant on having been refused post-arrest bail by learned Sessions Judge, Tando Allahyar has sought for the same from this Court by making instant application u/s: 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police otherwise he has already been declared to be innocent by the complainant by filing her affidavit before learned Trial Court. By contending so, he sought for release of the applicant on bail on point of further inquiry.

4. Learned Assistant Prosecutor General for the State and learned counsel for the complainant have recorded no objection to release of the applicant on bail.

5. I have considered the above arguments and perused the record.

6. The F.I.R of the incident has been lodged with delay of about 10 hours; such delay could not be overlooked. It was night time incident; therefore, the identity of the applicant was doubtful. More so, the complainant by filing her affidavit before learned Trial Court has already recorded no objection to grant of bail to the applicant by declaring him to be innocent impliedly. In these circumstances, a case for release of the applicant on bail on point of further inquiry obviously is made out.

7. In case of *Muhammad Najeeb vs. State (2009 SCMR-448)*, it has been held by Honourable Supreme Court of Pakistan that;

*“complainant initially had nominated the accused in the FIR but later-on through an affidavit he has expressed his satisfaction with regard to innocence of the accused, the case of the accused was of further enquiry”.*

8. In view of above, the applicant is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- and P.R bond in the like amount to the satisfaction of learned trial Court.

9. The instant bail application is disposed of accordingly.

JUDGE

*Muhammad Danish Steno\**