

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 674 of 2022**

Applicant : Nadir Hussain s/o. Ghulam Akbar, through  
Mr. Sohail Ahmed Memon, advocate

Respondent : The State, through Ms. Rahat Ehsan,  
Additional Prosecutor General  
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Date of hearing : 31.05.2022  
Date of order : 31.05.2022  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Nadir Hussain s/o Ghulam Akbar seeks post-arrest bail in Crime No. 475/2021, registered at P.S. Taimooria, Karachi under section 376, 511, 34, P.P.C. His earlier application for the same relief bearing No. 1153/2021 was dismissed by the learned Additional Sessions Judge-II, Karachi-Central vide order dated 21.03.2022.

2. As per F.I.R., lodged on 14.05.2021 at about 0140 by the complainant Abdul Rasheed s/o Malik Peer Bakhsh, accused Bilal alongwith his two unknown accomplices kept a handkerchief on the mouth of his daughter Sonia, aged about 13/14 years, who become unconscious, whereafter they brought her in Quarter No. 367 situated in Block "4", near Madina Masjid, KBR, Sector 16-A, Buffer Zone, Karachi where they attempted to commit zina with her.

3. Learned counsel for the applicant contends that the applicant is innocent and has nothing to do with the alleged offence, who has falsely been implicated in this case with mala fide intention and ulterior motives; that the name of present applicant does not transpire in the F.I.R.; that there is an inordinate delay of 15 hrs. in lodgment of F.I.R. for that no plausible explanation has been furnished by the complainant; that admittedly the F.I.R. has been lodged by the complainant after consultation; that the neighbour Kamal s/o. Ahsanuddin, who has allegedly called police at 15 police helpline has not been cited as witness; that

the applicant is confined in judicial custody since day of his arrest i.e. 16.05.2021 and police has submitted the challan; hence, his custody is no more required by the police for further investigation; that the trial of the case is likely to take some time and the applicant cannot be kept behind bar for an indefinite period; therefore, he is entitled to the concession of bail.

4. On the other hand, learned Addl. P.G. opposes the grant of bail to applicant on the ground that he is involved in a heinous offence carrying capital punishment; that the victim baby has fully implicated the applicant in her 164, Cr.P.C. statement recorded before learned XII<sup>th</sup> Judicial Magistrate, Karachi-Central; that as per medico-legal report the victim baby was subjected to physical violence and vaginal intercourse; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the concession of bail.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears that the minor victim was recovered from the quarter of co-accused Bilal with her hands and feet tied in unconscious condition. As per MLC, abrasions on forehead and tie marks were seen on both wrists of the minor victim and as per clinical examination she was subjected to vaginal intercourse.

7. The applicant was not nominated in the F.I.R. by the complainant but he was implicated by the minor victim in her statements recorded under section 161, Cr.P.C. and 164, Cr.P.C. wherein she disclosed that Bilal, Nadir (*present applicant*) and an unknown accused person committed zina with her. There appears no mala fide on the part of the minor victim to implicate the applicant with commission of alleged offence. As regards applicant's claim of false implication, it is an issue that cannot be attended without going beyond the

scope of tentative assessment, a venture prohibited by law. So far delay in recording F.I.R and consultation of the complainant before lodging it are concerned, suffice it to say that one should keep in mind the fact that in our society sexual abuse with a minor girl has disgusting social impact causing damage to her honour and prestige; hence, every aggrieved person thinks several times on the consequences and makes consultation with his nearer and dearer before lodging of an F.I.R. for such heinous offence. Even otherwise, delay in lodgment of an F.I.R. is *ipso facto* no ground for enlargement of an accused on bail as the same may be explained by the complainant during trial.

8. From the tentative assessment of the evidence in hands of the prosecution, I am of the view that prima-facie sufficient evidence is available against the applicant to connect him with the commission of alleged offence, carrying punishment for death or imprisonment not less than ten years or more than twenty-five years. Every hypothetical question which could be imagined would not make it a case of further enquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence.

9. As a result of above discussion, the instant criminal bail application is dismissed. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

JUDGE

*Athar Zai*