

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.750 of 2025

Date: Order with signature(s) of the Judge(s)

For hearing of bail application.

27.03.2025

Mr. Muhammad Akbar Khan, Advocate for the Applicants.
Ms. Rubina Qadir, APG.

Through the present bail application, applicants Asmat ul Khan Niazi, son of Habibullah Khan Niazi, and Sajjad Ahmed, son of Abdul Sattar, seek post-arrest bail in Crime No. 53 of 2025, registered under Sections 377, 511, and 34 PPC at P.S. Peerabad, Karachi. Their previous bail plea was rejected by the learned Additional Sessions Judge-X, Karachi West.

2. In summary, the prosecution's case is based on the events of 02.02.2025, when Shaban, the 12-year-old son of the complainant, left the house but did not return. Despite the complainant's search, Shaban remained missing until he returned home on 03.02.2025. Upon inquiry, he revealed that Asmatullah and Sajjad, who were sitting on the street, had forcibly taken him to a Bethak (Guest Room), removed his shalwar, and attempted to sexually assault him. Shaban was confined there until the morning when Asmatullah unlocked the door, allowing him to return home. These details led to the registration of the case.

3. At the very outset, the learned counsel for the applicants asserted that the applicants are innocent and have been wrongfully accused due to personal enmity. He further emphasized that no medical evidence exists on record to substantiate the allegations mentioned in the FIR. Additionally, the counsel highlighted an unexplained and considerable delay in lodging the FIR. He also submitted an affidavit from the complainant, absolving the applicants of any involvement in the alleged offence.

4. The learned Additional Prosecutor General, Sindh, acknowledged that no evidence of violence or forensic proof was discovered and raised no objection considering the affidavit submitted by the complainant.

5. The medical report confirms the absence of any signs of violence on the alleged victim, which undermines the credibility of the allegations. Furthermore, the one-day delay in filing the FIR weakens the prosecution's stance. The complainant has executed an affidavit absolving the applicants of the alleged offence. Both the complainant and the victim were present and, upon inquiry, affirmed the contents of the affidavit, which has been placed on record. Consequently, the prosecution's case now presents two conflicting narratives: one in the FIR and the other through the affidavit exonerating the applicants. Resolving these contradictions will be a matter for trial. Since the investigation is complete, the applicants are no longer required for further inquiry.

6. In view of the above, the applicant has, prima facie, established grounds for further inquiry as contemplated under Section 497(ii) Cr.P.C. Consequently, bail is granted to the applicant upon furnishing a solvent surety of Rs. 50,000/- (Rupees Fifty Thousand only) and a P.R. bond of the same amount to the satisfaction of the learned trial court.

JUDGE

Shahbaz