

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No.461 of 2025

Applicant : Aqib Javed son of Muhammad Usman Jaskani  
Through Mr. Imran Ali Shah, advocate.

Respondent : The State  
Through Ms. Seema Zaidi, Addl. P.G. Sindh.

**Date of hearing : 28.03.2025.**

**Date of order : 28.03.2025.**

### **ORDER**

**KHALID HUSSAIN SHAHANI, J** -- The applicant seeks pre-arrest bail in case bearing crime No.14/2025, offence u/s 377, 377-B & 34 PPC of Police Station Bathoro, following the rejection of his bail application by the 1st Additional Sessions Judge, Sujawal, on 17.02.2025.

2. Briefly stated, the prosecution's case is that on 12.01.2025 at about 1200 hours, accused Zeeshan, Ghulam Mustafa, and an unidentified person allegedly committed sodomy against Riaz, a 12/13-year-old, brother of the complainant. Consequently, the FIR was lodged based on these allegations.

3. The learned counsel contends that applicant is innocent and has been wrongly implicated; that there is a significant and unexplained delay of approximately nine days in lodging the FIR; that the eyewitness account lacks support from medical or circumstantial evidence; he further refers to an order dated 10.03.2025 passed by the learned Additional Sessions Judge-I, Sujawal, granting bail to co-accused Ghulam Mustafa in Criminal Bail Application No. 161 of 2025. Additionally, he highlights that following the investigation, the Investigating Officer submitted a report under Section 173 Cr.P.C. recommending disposal of the case under 'C' Class, hence praying for the grant of bail..

4. Conversely, the learned Deputy Prosecutor General (DPG) concedes, albeit reluctantly, that the ocular evidence does not support the prosecution's case.

5. Although the applicant and co-accused Ghulam Mustafa have been named in the FIR, alleging commission of carnal intercourse against the victim Riaz, such allegations are unsupported by both medical and circumstantial evidence. The Medico-Legal Officer conducted a detailed examination of the victim and concluded there were no physical signs of intercourse, sending blood samples and clothing for chemical and DNA

testing. As indicated by the learned DPG, these reports were negative. Likely due to these findings, the Investigating Officer recommended that the case be disposed of under 'C' Class. Moreover, co-accused Ghulam Mustafa, facing identical allegations, has already been granted bail by the trial court. Accordingly, on the principle of consistency, the applicant merits similar relief. Additionally, as the case has already been challaned, the applicant's custodial interrogation is no longer required.

6. In light of the above discussion, the applicant has successfully demonstrated that the matter requires further inquiry as defined under Section 497(ii) Cr.P.C. Thus, this bail application is allowed, and the interim pre-arrest bail previously granted to the applicant vide order dated 21.02.2025 is confirmed on the same conditions, with the direction to the applicant to actively participate in the investigation/trial as required.

**JUDGE**

shahbaz