

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
MIRPURKHAS.**

**Criminal Bail Application No.S-116 of 2025**

Applicants: Umaid Ali and Muhammad Arif through Mr. Sikandar Ali Kolachi, Advocate.

Respondent: The State through Mr. Neel Parkash, Deputy Prosecutor General, Sindh a/w I.O.

Complainant: Mst Rani (present in person).

Date of hearing: **19.08.2025**

Date of Order: **19.08.2025**

**O R D E R.**

**AMJAD ALI SAHITO, J:-** Through this bail application, the applicants/accused above named seek their pre-arrest bail in Crime No.70 of 2025, under sections 376, 511, 354, 337-A(i), 337-F(i) & 34 P.P.C, registered at P.S Kunri, District Umerkot, after their bail plea was declined by the learned Additional Sessions Judge-I Umerkot.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Learned counsel for the applicants/accused has contended that the applicants are innocent and have been falsely implicated in the instant case with mala fide intent. It is submitted that the FIR was lodged after an unexplained and inordinate delay of seven days, which casts serious doubt on the veracity of the allegations. Learned counsel further submits that the medical report is negative. Learned counsel maintains that the complainant, due to dispute over children, has implicated the applicants/accused with ulterior motives, and as such, the applicants are entitled to the concession of pre-arrest bail. In support of his arguments, reliance has been placed on the order dated 16.09.2021 passed in Criminal Bail Application No.S-339/2021.

4. On the other hand, complainant appeared and states

that on the day of incident applicants/accused forcibly dragged her in the house of applicant/accused Umed Ali where accused Umed Ali committed zina with her, so also the applicants have tortured to her. In support of her contention she played video which was recorded in mobile phone. She further contends that the applicants/accused are not entitled for the extra ordinary relief of pre-arrest bail and prayed for its dismissal.

5. Learned D.P.G also supported the contentions of the complainant and argued that the applicants/accused are specifically nominated in the FIR and they have committed heinous offence and not entitled for the concession of bail and opposed for grant of bail.

6. Heard and perused.

7. From the perusal of record it reflects that the names of the applicants/accused are duly mentioned in the FIR with specific roles attributed to them. It is alleged that on the day of the incident, the applicants/accused forcibly kidnapped the complainant, Mst. Rani, and confined her in the house of accused Umed Ali, where, after removing her *shalwar*, accused Umed Ali subjected her to rape. It is further alleged that the applicants/accused inflicted severe torture upon her, as a result of which she sustained injuries on her head and other parts of her body.

8. The complainant, Mst. Rani, who is present before this Court, has deposed that approximately eight years ago her husband divorced her, and since then she has been residing in the neighborhood of the applicants/accused. She further stated that prior to the incident, accused Umed Ali had also committed *zina* with her and had threatened that, in the event she disclosed the matter to anyone, it would bring dishonor to her and her family.

9. Subsequent to the registration of the FIR, the victim was produced before the learned Magistrate for recording her statement under Section 164, Cr.P.C., wherein she categorically implicated the accused persons in the

commission of the alleged offence.

10. The offence with which the applicants stand charged fall within the prohibitory clause of Section 497 Cr.P.C. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicants even otherwise they have shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakis [2019 S CMR 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

*"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."*

11. At bail stage, only tentative assessment is to be made. Sufficient material is available on the record to connect the applicants with the commission of alleged offence. From the contents of the FIR, it is apparent that the alleged offence is of a heinous nature where the applicants/accused committed Zina-bil-Jabbar.

12. The learned counsel for the applicants has failed to establish the case to the extent of the applicants/accused warranting the confirmation of interim pre-arrest bail. Accordingly, the interim bail already granted to the applicants/accused is hereby **dismissed**. The interim bail granted to the applicants vide order dated **08.05.2025** is hereby **recalled**.

13. The Investigating Officer (I.O) present in Court has requested for the custody of the applicants for further investigation. The request is allowed, and the custody of the applicants/accused is handed over to the I.O with a direction

to produce them before the Magistrate for the purpose of obtaining remand.

14. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

**JUDGE**

\*Adnan Ashraf Nizamani\*