

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 1591 of 2025

Applicant : Muhammad Jamal, through Mr.Naseer
Nehal Hashmi, Advocate.

Complainant : Mst. Shamim through Mr.Basam Ali
Dahri, Advocate.

Respondent : The State, through Mr. Rubina Qadir,
Addl. P.G.

Date of Hearing : 05.11.2025.

Date of Order : 05.11.2025.

ORDER

TASNEEM SULTANA-J:- Through this Criminal Bail Application applicant is seeking post-arrest bail in FIR No. 988/2024 registered under Section 376(3) of the Pakistan Penal Code at Police Station Defence, Karachi South.

2. Brief facts of the case, as disclosed in the FIR dated 27-11-2024, are that the complainant, who works as a domestic house servant, left her 9 years old daughter Alia alone at home while she went to fill water. When she was buying vegetables from a shop in neighbor, her daughter came running and told her that during her absence, their neighbor applicant Muhammad Jamal entered the house, took off her clothes and sat on her when she felt severe pain between legs (committed rape). Complainant brought her at house where she further told that she managed to get free and ran into washroom, closed it from inside on which he went away while closing door from outside. She then raised cries aloud which were attracted to girls of neighbor who released her. Complainant knocked door of accused when Jamal and his mother Azra Bibi fought with her. Hence she called his brother Kamran. Later on FIR was registered to the above effect.

3. After registration of FIR, the investigation followed and during the course, he was arrested and challaned. Bail plea moved on behalf of applicant was declined vide order dated 20.3.2025 passed by learned Additional Sessions Judge-III, Karachi South.

4. Learned counsel for the applicant has contended that applicant has been falsely implicated with malafide and ulterior motives; admittedly there is no eyewitness of the occurrence; the statement U/S 161 Cr.P.C of the complainant and the statement U/S 164 Cr.P.C.of the alleged victim contradict with each other which create substantial doubts regarding the veracity of the prosecution case and warrant further inquiry; the DNA report does not implicate the applicant which defies his involvement in the alleged crime; the FIR has been lodged with mala fide intent to extort money from the accused, therefore, prosecution case against him calls for further enquiry and he is entitled to the concession of bail.

5. Learned Addl. P.G duly assisted by learned counsel for the complainant contended that applicant is named in FIR with specific role of coming zina with a minor girl of 9 years old which is a heinous offence in nature, being crime against society and dignity of a child; he has been implicated in 161 and 164 Cr.P.C statements of complainant and victim baby and prior to this bail pleas moved on behalf of applicant have already been dismissed by the trial Court twice on merits vide orders dated 17.12.2024 and 20.3.2025, yet again he has repeated his bail plea on similar grounds, which is liable to be dismissed.

6. Heard. Record perused.

7. From tentative assessment of the record, it appears that the applicant stands specifically nominated in the FIR with the allegation that he unlawfully entered the complainant's house and subjected the nine-year-old child to sexual assault, whereafter the minor, in a distressed condition, approached her mother and the police were summoned through Madadgar-15. The FIR was lodged without delay, which prima facie lends assurance to the prosecution case and excludes the element of deliberation at the initial stage.

8. The material collected during investigation further supports the FIR version. The minor victim has consistently implicated the applicant in her statements recorded under Sections 161 and 164 Cr.P.C. and has reiterated the same account during her deposition before the learned trial Court. Her testimony remained firm and coherent, and nothing favourable to the defence could be elicited in cross-examination so as to indicate tutoring, exaggeration or mala fide. At this stage, such consistency from a child of tender age carries significant evidentiary weight.

9. The medico-legal certificate reflects that the minor was examined promptly and that multiple bruises were observed over her forearm, arms and back, opined as recent blunt-trauma injuries. These medical findings prima facie lend support to the allegation that force was employed during the occurrence. It is further reflected that relevant swabs, clothing and samples were secured for forensic analysis. Whether the eventual forensic results corroborate the prosecution case is a matter to be determined at trial, and deeper appreciation of such material is impermissible at the bail stage.

10. The surrounding circumstances also appear natural and consistent with the prosecution narrative. The minor immediately approached her mother in a frightened state and disclosed the occurrence; the complainant confronted the applicant without delay; Madadgar-15 was contacted forthwith; and the applicant was apprehended shortly thereafter. Such conduct appears spontaneous and free from embellishment.

11. The plea of false implication raised on behalf of the applicant does not carry weight at this stage. No previous enmity, animosity or motive has been demonstrated which may justify the complainant substituting the real perpetrator with the present applicant in an allegation involving sexual assault upon a minor child. Bald assertions of false implication, particularly in offences of this nature, do not merit acceptance unless supported by cogent material, which is absent in the present case.

12. The applicant's conduct also raises a legal concern. After his earlier bail application (Cr. Bail Appln. No.4255/2024) was dismissed on merits by learned trial Court vide order dated 17-12-2024, he repeated another bail application (Cr. Bail Appln. No.18 of 2025) on merits before trial Court which was also dismissed by the learned trial Court on 20.03.2025. Subsequently two material prosecution witnesses (victim girl and complainant) were examined on 29.05.2025, therefore, on fresh ground of alleged contradictions and improvements made by victim girl and complainant while recording their evidence at the trial, applicant has directly approached this Court by filing instant bail application without exhausting the remedy of repeating bail application on such fresh ground before the learned trial Court in the first instance. Such circumvention of the proper forum renders the present application procedurally improper and disentitles the applicant from discretionary relief.

13. The offence alleged falls within the prohibitory clause of Section 497 Cr.P.C. Section 376(iii) PPC, which deals with sexual assault of a minor below fourteen years, carries punishment of death or imprisonment for life. Where prima facie material connects the accused with an offence carrying such severity, the concession of bail is not ordinarily extended unless the case appears to be one of further inquiry, which is not evident in the present matter.

14. In view of the foregoing discussion and analysis, it appears that at this stage, the applicant has failed to make out a case for grant of post-arrest bail. Consequently, instant bail application was dismissed by short order dated 05.11.2025 and these are the reasons thereof.

However, it is clarified that the observations made herein above are tentative in nature which shall not prejudice the case of either party while deciding fate of the case at trial.

JUDGE