

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2341 of 2025

Hamza Hadi son of Hadi Bux Soomro.....Applicant/Accused

Versus

The State.....Respondent

Date of Hearing : 28.10.2025

For the Applicant : Mr. Muhammad Ibrahim Soomro,
Advocate.

For complainant : Complainant is present in person.

For the State : Mr. Zahoor Shah, Additional P.G.

ORDER

TASNEEM SULTANA, J: Through this criminal bail application, the applicant Hamza Hadi son of Hadi Bux Soomro seeks confirmation of pre-arrest bail in Crime No.375 of 2024 registered at Police Station Sharafi Goth, Karachi, under Section 365-B PPC read with Sections 3 and 4 of the Sindh Child Marriage Restraint Act, 2013.

2. The facts of the prosecution case, are that on 23-10-2024 complainant Shabbir Ahmed, employed as Production In-charge in ADM Company, returned home at about 6:15 p.m. when his wife informed him that their daughter Aqsa, aged about fifteen years, had left the house at 3:00 p.m. on the pretext of visiting a neighbour residence but did not return. The complainant searched for her but could not find any clue. On checking the home cellphone No. 0312-1390022, he noticed frequent calls made to No.0319-1056196 belonging to one Basit Ali and, believing that Basit Ali had enticed and kidnapped his daughter with malafide intention, he lodged the present FIR.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated with malafide intention; that the applicant is not nominated in the FIR; that the only allegation against him is that he, being a Nikah Khuwan, recited the Nikah between Basit Ali and the alleged abductee Aqsa; that his role

begins and ends with the recitation of Nikah; that no element of force, deceit or conspiracy is attributed to him; that the offences alleged do not fall within the prohibitory clause of Section 497 Cr.P.C.; and that the investigation has been completed, challan submitted and the applicant is no longer required for custodial interrogation.

4. Conversely, learned Additional Prosecutor General for the State opposed the confirmation of bail and contended that the abductee in her statement under Section 164 Cr.P.C implicated the applicant with specific role; that by solemnizing such Nikah he facilitated an unlawful act and thus shares liability under the Sindh Child Marriage Restraint Act; however, no material has been produced showing that he participated in or was privy to the alleged abduction.

5. Heard. Record perused.

6. Perusal of the material available on record reflects that the FIR was lodged only against Basit Ali for abduction of the minor girl. The applicant was later implicated on the basis of the abductee's statement recorded under Section 164 Cr.P.C., wherein she has stated that her Nikah with Basit Ali was recited by the present applicant acting as Nikah Khuwan. No allegation of abduction, confinement, rape or facilitation thereof has been levelled against him. The challan confines his role exclusively to recitation of the Nikah. The Investigating Officer has not collected oral or documentary evidence showing that he had prior knowledge, or shared any common intention with, the principal accused. The age of the girl, as reflected in the record, is about fifteen years, and even if such Nikah was solemnized, owing to age does not by itself attract the ingredients of Section 365-B PPC.

7. On tentative assessment, the material collected brings the case of the applicant within the ambit of further inquiry as envisaged under Section 497(2) Cr.P.C. When the case calls for further inquiry into guilt of accused within the meaning of Section 497(2) Cr.P.C., the accused is entitled to bail as of right. Reliance is placed on the case of *Salman Mushtaq & others v. The State through P.G Punjab and another* (2024 SCMR 14) wherein Hon'ble Supreme Court has held as under:-

6.While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....

8. The applicant has remained on interim pre-arrest bail since 05.03.2025 and there is no material suggesting that he has misused the concession or attempted to influence the prosecution witnesses. In the absence of any exceptional circumstances, grant of bail is a rule and refusal an exception, as consistently held by the Honourable Supreme Court of Pakistan, inter alia in Zafar Iqbal v. Muhammad Anwar (2009 SCMR 1488) and Riaz Jafar Natiq v. Muhammad Nadeem Dar (2011 SCMR 1708).

9. In view of the foregoing, the ad-interim pre-arrest bail earlier granted to the applicant is confirmed on the same terms and conditions.

10. The observations made hereinabove are purely tentative and shall not influence the learned trial Court while deciding the case on merits.

JUDGE

Ayaz Gul