

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Application No. 871 of 2026
C.P. No. D-1713 of 2026

[Rashid Ali V. The State]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and Order: 04.05.2026

Mr. Zameer Ahmed Bhutto, Advocate for the Petitioner.
Mr. Faheem Hussain, Deputy Prosecutor General.
Mr. Akhtar Hakeem Kalwar, Advocate for
Complainant along with Complainant and
Victim Jahanzaib and Yousuf Baig.
Inspector Muhammad Rizwan, P.S. AVCC/CIA, Karachi.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Rashid Ali has filed this Criminal Bail Application under Section 498 read with Section 561-A of the Criminal Procedure Code, 1898, which was later converted into a Constitution Petition vide order dated 16.03 2026.

2. Learned counsel contends that as per the FIR No 78/2026 registered under Section 365-A/395/34 RW 7 ATA at P.S Model Colony. The alleged occurrence pertains to abduction for ransom by five unknown persons who arrived in a black Revo vehicle with covered faces, and notably, the applicant has neither been nominated in the FIR nor assigned any specific role therein. Learned counsel emphasizes that the applicant has been a serving police constable since 2016 with an unblemished record, presently posted at the Foreign Security Cell, and was on official duty at the relevant time, which can be verified from the official record. It is further argued that the applicant has no nexus whatsoever with the alleged offence and apprehends his false implication due to mala fide intentions during the investigation. Counsel submits that the case, at best, calls for further inquiry as there are no reasonable grounds to believe that the petitioner/applicant has committed the alleged offence. Learned counsel adds that the applicant intends to surrender before the competent court to seek pre-arrest bail; however, he apprehends immediate arrest before he can avail such a remedy. He submits that protective bail is a recognized relief to ensure access to justice and prevent undue harassment. He prayed that, in the interest of justice, the applicant may be granted protective bail for a short period to enable him to approach the appropriate forum with a direction that he shall not be arrested during such period. Learned counsel further submits that though there is no challan submitted before the Court of law they may be restrained from arresting the petitioner in the subject crime.

3. On the aforesaid plea, this Court vide order dated 17.03.2026 granted pre-arrest bail to the petitioner/applicant subject to furnishing his solvent surety in the sum of Rs.500,000/- [Rupees Five Hundred Thousand only] and PR Bond in the like amount with the Nazir of this Court. Meanwhile the investigation officer of the subject crime was directed to be in attendance along with complainant and the victim.

4. Both are present today in Court and reiterated the contents as recorded in 164 Cr.P.C statement before the Judicial Magistrate-III, Karachi East wherein the applicant was in attendance.

5. When the presence of the petitioner/applicant was called in Court in terms of Section 498 Cr.P.C., he was found absent, whereas his attendance was required under law. However, learned counsel submitted that the petitioner was unwell and had been referred to the Jinnah Postgraduate Medical Centre for emergency treatment, and for that reason he could not remain in attendance before the Court. This is not a sufficient ground to condone the absence of the petitioner/applicant in a pre-arrest bail matter, especially when the complainant along with the victim's father and the Investigating Officer are present in Court, who have raised their voice of concern with regard to the involvement of applicant / petitioner in the subject crime. Be that as it may, it is for the Investigating officer to conclude the investigation if there is sufficient incriminating material against the applicant he may proceed in accordance with law. The Investigating Officer submits that custodial interrogation of the petitioner/applicant is required for further investigation, as considerable time has already elapsed and the challan is to be submitted before the competent Court.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. This Court is of the considered view that the extraordinary protection granted under Section 498 Cr.P.C. is always discretionary in nature and is to be exercised sparingly in cases where the applicant successfully demonstrates absence of reasonable grounds for his involvement and shows a bona fide apprehension of arrest.

8. In the present case, although the petitioner was initially granted pre-arrest bail vide order dated 17.03.2026, such concession was conditional upon strict compliance with court directions, including his continued availability before this Court and cooperation with the investigation. However, today petitioner remained absent, and only a post facto explanation of illness and hospital referral was advanced, which, in the considered view of this Court, does not constitute a

satisfactory or legally sufficient ground in the facts of the present case, particularly when the matter pertains to a serious offence under Sections 365-A/395/34 PPC read with Section 7 ATA.

9. It is further noted that the complainant, the victim's father, and the Investigating Officer are present in Court and have consistently maintained the version recorded under Section 164 Cr.P.C., thereby supporting the prosecution's stance. The Investigating Officer has also categorically submitted that custodial interrogation of the petitioner is necessary for effective investigation, especially in view of the nature and gravity of allegations and the fact that sufficient time has already elapsed due to non-cooperation of applicant for completion of investigation and submission of report before the competent court.

10. The law is well settled that pre-arrest bail is not a vested right but an exceptional relief intended to protect an innocent person from arbitrary arrest, and where the allegations are serious, investigation is at a crucial stage, and custodial interrogation is required, primarily, the Courts must lean in favour of effective investigation rather than granting continued protection in a heinous crime. Besides, the complainant has raised his voice of concerned and narrated his ordeal or deal and referred to his 164 CR.P.C statement recorded before learned Judicial Magistrate.

11. In the present case, the conduct of the petitioner in remaining absent without proper justification, coupled with the seriousness of allegations and the Investigating Officer's clear request for custody, leads this Court to the conclusion that the continuation of interim protection would frustrate the course of investigation and would not be in consonance with the settled principles governing pre-arrest bail, as apparently there is no malafide on the part of complainant and police.

12. Accordingly, this Court finds that the petitioner has failed to make out a case for continuation of pre-arrest bail in term of section 498 CR.P.C, and the discretion earlier exercised in his favor is liable to be withdrawn in order to ensure fair and uninfluenced investigation and to uphold the interest of justice. We are not satisfied with the conduct of the petitioner against which serious allegations have been leveled by the prosecution for which he is required to face the investigation which he failed to join after obtaining pre-arrest bail on 17.03.2026 and remained absent when the court vide order dated 16.04.2026 called attendance of victim and complainant.

13. Resultantly, the interim bail granted to the applicant vide order dated 17.03.2026 is recalled due to his absence from Court coupled with allegations levelled against him, which are of serious nature requires his invigilation and failure of the surety to produce him in Court today as required. Notice be issued to

the surety to show cause as to why the surety should not be forfeited. Meanwhile, the Investigating Officer is directed to proceed in accordance with law and produce the accused before the trial Court for further proceedings. The applicant shall surrender to police for investigation.

14. The bail application/petition stands dismissed along with pending applications. Let a copy of this order be communicated to IGP Sindh and Additional IGP Karachi to look into the conduct of police personnel in such state of affairs.

JUDGE

Ayaz Gul

JUDGE