ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Miscellaneous No.205 of 2025

SABIR HUSSAIN
Versus
THE STATE AND ANOTHER

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	13.02.2025.	**Mr. Basharat Hussain Raja and Malik Zaheer Ahmad, Advocates for the petitioner.** **Mr. Imtaiz Ahmed Somra, Advocate for respondent No.2/complainant.** **Rana Ali Raza, State Counsel.** **Zulfiqar Ali, S.I, P.S Shalimar, Islamabad with record.** Through the instant petition, the petitioner seeks post arrest bail in case FIR No.1090 dated 25.12.2024 under sections 376(iii) and 511 PPC, registered with Police Station Shalimar, Islamabad. 2. Brief facts as per the FIR are that respondent No.2/complainant filed an application with the police, stating that he is resident of Chontra Mera Beri, Post Office Golra Sharif, Islamabad. On 25.12.2024, at about 5:40 p.m, he received a phone call from his home, informing him that Sabir Hussain (present petitioner) has forcibly taken his son Saad Hameed aged about 8/9 years to his house, who is student of second class. Respondent No.2 immediately went to the petitioner's house, where the door was opened but no one else was

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present. Respondent No.2 saw that the petitioner was sitting on the bed, with Saad Hameed in his lap and noticed that his son'condition was not good. Upon seeing the complainant, the petitioner stood up and got aside his son. Respondent No.2 observed that his son's Shalwar was lowered and the petitioner's Shalwar was also down. Son of respondent No.2 told him that the petitioner brought him to his house forcibly and tried to commit rape with him.

3. Learned counsel for the petitioner contended that the incident alleged by respondent No.2 did not take place and the petitioner has falsely been roped in the instant case with malafide intention, whereas in fact there was a dispute of a mobile between respondent No.2 and the petitioner; that there is no direct or indirect evidence available on record against the petitioner; that case of the petitioner does not fall within prohibitory clause of section 497(1), Cr.P.C and in such like cases grant of bail is rule and refusal is exception; that investigation has been completed and the petitioner is no more required for the purpose of further investigation.

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4. On the other hand, learned State Counsel along with learned counsel for respondent No.2 vehemently opposed the instant bail petition and contended that the petitioner has committed heinous offence with minor son of respondent No.2 and such like offence falls under the Islamabad Capital Territory Child Protection Act, 2018; that there is no *malafide* on the part of respondent No.2; that this is a case in which the FIR has promptly been lodged coupled with statement of the victim and offence u/s 377-B, PPC has also been added vide Diary No.5 dated 08.02.2025.

5. I have heard the arguments and perused the record.

6. As per the record of the National Database and Registration Authority (NADRA) available on file, the victim is a minor, approximately 8 to 9 years of age and a student of the second grade. The petitioner is alleged to have forcibly taken the minor victim to his residence, where he was seen by respondent No.2, the father of the victim. Respondent No.2 witnessed his son seated in the lap of the petitioner in a distressed condition (both the petitioner and the victim in a state suggesting

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inappropriate conduct). Subsequently, the victim recorded his statement under Section 164 Cr.P.C before the Ilaqa Magistrate, providing details of the incident. There is no evidence on record to suggest *malafide* intention or ulterior motive on the part of respondent No.2 to falsely implicate the petitioner in the present case.

7. The principles enunciated by the Hon'ble Supreme Court of Pakistan emphasize that in cases involving child victims, the primary consideration remains the welfare and protection of the minor and any delay in reporting must be viewed in light of the trauma experienced by the victim. Prima facie statement of the minor victim connects the petitioner with the commission of the alleged offence.

8. The offence with which the petitioner has been charged falls within the prohibitory clause of Section 497, Cr.P.C. Given the nature of the accusation and the severity of the alleged offence, sections 376(iii) and 511 PPC are directly attracted, as per the authoritative interpretation of the Hon'ble Supreme Court of Pakistan. The argument advanced by the learned counsel for the petitioner,

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asserting that the case is a result of a dispute over a mobile phone between respondent No.2 and the petitioner, is a matter that can only be determined after the recording of evidence by the Trial Court.

9. At the bail stage only a tentative assessment of the facts and available evidence is permissible. Prima facie, sufficient material is available on record to connect the petitioner with the commission of the heinous offence, thereby justifying the denial of bail under settled legal principles established by the Hon'ble Supreme Court of Pakistan.

10. For the reasons discussed above, the petitioner is not entitled to the grant of bail. Therefore, the instant petition is hereby **dismissed.**

11. It is needless to mention that the above observations are tentative in nature and shall in no way prejudice the learned Trial Court.

(INAAM AMEEN MINHAS)
JUDGE

R.Anjam.

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