*Form No: HCJD/C-121*

***ORDER SHEET***

# LAHORE HIGH COURT
# RAWALPINDI BENCH, RAWALPINDI

***JUDICIAL DEPARTMENT***

**Crl. Misc. No.3388-B/2026**

**Mayoon** Vs. **The State, etc.**

| Sr. No. of order/ proceeding | Date of order/ proceeding | Order with signature of Judge, and that of parties or counsel, where necessary. |
|---|---|---|

21.10.2026 Mr. Aftab Umar, Advocate for the petitioner.
Malik Muhammad Latif, A.P.G.
Muhammad Saeed, S.I., with record.
Mr. Asif Pervaiz, Advocate with Nasir Bilal, father of victim.

Mayoon, petitioner, seeks post-arrest bail in case F.I.R. No.74 dated 15.04.2026 registered u/s 3,4,5,7 of the Punjab Child Marriage Restraint Ordinance, 2026 and section 376(iii) PPC at Police Station Injra, District Attock.

2. As per the prosecution's version, as narrated in the F.I.R., the complainant's daughter, namely Akleema, went missing from his house, whereafter an unknown person contacted him telephonically and disclosed that his daughter was in his custody.

3. Hearkened. Record perused.

4. The record reveals that the complainant's daughter contracted marriage with the petitioner without the consent of her parents. In the F.I.R., the complainant initially stated her age to be fourteen years, however, he subsequently claimed that she was twelve years old, her ossification test was conducted, which allegedly assessed her age to be between fifteen and sixteen years. The alleged marriage was solemnized on 12.04.2026. On 18.04.2026, the complainant's daughter appeared before the learned Judicial Magistrate and recorded her

statement under section 164 Cr.P.C., wherein she stated that she had attained puberty two years back, had contracted marriage with the petitioner, Mayoon, of her own accord on 12.04.2026, and that "neither anyone abducted nor committed zina with me." It appears that, in view of the said statement, section 365-B PPC was deleted, while sections 3, 4 and 5 of the Punjab Child Marriage Restraint Ordinance, 2026, were subsequently added. At the time of the alleged marriage, the Punjab Child Marriage Restraint Act, 2026, had not yet been enacted, and the Punjab Child Marriage Restraint Ordinance, 2026, was in force.

5. Before proceeding further, it would be apposite to have a fresh glance upon sections 3, 4 and 5 of the Ordinance ibid., which read as under:

> *"3.* ***Registration of child marriages****.- (1) No Nikah registrar shall register a child marriage.*
>
> *(2) Whoever contravenes the provision of sub-section (1), shall be liable to be punished with simple imprisonment for a term which may extend to one year and with fine of one hundred thousand rupees.*
>
> *4.* ***Punishment for marrying a child****. - Whoever, being an adult above eighteen years of age, contracts a marriage with a child, shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall be liable to fine which may extend to five hundred thousand rupees.*
>
> *5.* ***Child abuse and its punishment****. - (1) Any form of cohabitation, before attaining the age of eighteen years, with or without consent, resulting from a child marriage shall be the child abuse under the Ordinance.*
>
> *(2) Any person who induces, forces, persuades, entices or coerces any child bride or child groom to engage in child abuse or commits child abuse shall be punished with imprisonment for a term which may extend to seven years but shall not be less than five years and with fine which shall not be less than one million rupees."*
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> *[underline has been supplied for Emphasis]*

It is well settled that, while deciding a bail petition, the Court is competent to tentatively examine the

applicability of the relevant penal provisions in the light of the material available on record. In this context, it is astonishing that section 376(iii) PPC was subsequently added to the case on 07.05.2026, on the intervention of the prosecution, without any fresh incriminating material having been brought on record. A perusal of section 5 of the under discussion special law reveals that it has specifically addressed the question of child abuse arising from child marriage and prescribed punishment for the same under subsection (2). The provision contemplates that any form of cohabitation resulting from child marriage shall constitute child abuse, Although child marriage has been criminalized, the marriage itself has not, by virtue of the provision under consideration, been declared void. The deliberate use of the expression "cohabitation", rather than "rape", and the specific punishment prescribed therefor, *prima facie*, indicate that the legislature has separately addressed the consequences of cohabitation in the context of child marriage. In these circumstances, the addition of section 376(iii) PPC, without supporting material, appears unwarranted on the facts presently available and in the light of the applicable statutory framework. Even otherwise it is a well-settled principle of statutory interpretation that a special law, being a specific legislative provision governing a particular subject, prevails over the general law. Reliance in this respect is placed on the case laws reported as *Sui Northern Gas Pipelines Ltd. (SNGPL), Islamabad* vs. *Messrs S.K. Pvt. Limited and others* **(2025 SCMR 570)** and *Syed Mushahid Shah and others* vs. *Federal Investigation Agency and others* **(2017 SCMR 1218)**.

6. During the course of arguments, learned counsel for the petitioner has referred to a line of precedents rendered by this Court and the Hon'ble Supreme Court

wherein puberty was considered relevant to the question of a valid marriage. In this regard, it may be observed that Islamic jurists and scholars have historically recognized Bulugh (puberty or the attainment of reproductive maturity) as a significant threshold in determining the transition from childhood to maturity. However, the legal landscape has undergone a substantial change following the Ordinance ibid, the ratio decidendi of the earlier precedents was founded upon the erstwhile legal framework and, therefore, cannot be applied to the present controversy.

7. Furthermore, even if the prosecution's allegations are tentatively accepted at face value, the material presently available on record does not disclose sufficient incriminating evidence to substantiate the allegation of cohabitation so as to prima facie attract section 5 of the Ordinance ibid. On the basis of the material currently available, the alleged conduct, at the most, appears to fall within the ambit of sections 3 and 4 of the special law, which prescribe imprisonment for a term not exceeding three years, besides fine, subject to the applicability of the relevant provisions. Consequently, the offences, *prima facie*, applicable/attracted do not fall within the prohibitory clause of section 497 Cr.P.C. When an offence falls within the ambit of non-prohibitory clause, the concession of bail be favourably considered and should only be declined in exceptional cases, but no such exceptional circumstance has been pointed out for refusal of bail. Reliance is placed upon the case-laws titled as "*Tariq Bashir and 5 others v. The State*" (**PLD 1995 SC 34**) and *Muhammad Amjad Naeem* vs. *The State through Prosecutor General Punjab and another* **(2025 SCMR 1130)**. The petitioner is behind the bars since his arrest.

The continued incarceration of the petitioner would serve no useful purpose or advance the prosecution's case.

8. Consequently, this petition is **allowed** and petitioner is admitted to bail subject to his furnishing bail bonds in the sum of Rs.5,00,000/- (Rupees five lac) with one surety, in the like amount to the satisfaction of the learned trial court. The observations are tentative in nature and would not be taken as conclusive.

***(Tariq Mahmood Bajwa)***
***Judge***

**M.S.Aleem**

Approved for reporting

**Judge**