

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl.Misc.No.95-B of 2020

Javeria Afridi
Versus
The State

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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18.03.2020 **Mr. Naveed Raza Mughal, Advocate along with for the petitioner.**
Mr. Farhan Nazir Kiani, Advocate for the complainant.
Mr. Muhammad Nadeem Khan Khakwani, Assistant Attorney-General.
Mr. Zohaib Hassan Khan, Inspector/FIA with record.

Through the instant petition, the accused/petitioner, Javeria Afridi daughter of Salah ud Din Afridi, seeks pre-arrest bail in case FIR No.37, dated 24.01.2020, under Section 6 (1) (c) of the Passport Act, 1974, registered at Police Station FIA/AHTC, Islamabad.

2. Earlier ad-interim pre-arrest bail granted to the petitioner was re-called by the learned Sessions Judge, Islamabad (West) vide order dated 06.02.2020.

3. Learned counsel for the petitioner submits that the petitioner is innocent; that complainant is the petitioner's former father-in-law; that the case against the petitioner has been registered on the basis of personal grudge and *mala fides*; that the petitioner obtained Khula from the complainant's son on 15.10.2019 whereas certificate for the effectiveness of the divorce was issued on 16.01.2020; that the complainant has filed several other cases against the petitioner and her relatives; that the complainant's son, Saeed Khan Baloch concealed the factum as to his marriage with the petitioner in the year 2008, and got it registered in the year 2016; that on account of such concealment, the petitioner's credentials could not

be updated and her passport was renewed with previous husband's name.

4. Learned counsel further submits that the alleged offence does not fall within the prohibitory clause of section 497 (1) Cr.P.C.; that case against the petitioner is based on official documents lying with the passport authority; that no tampering with such documents can be apprehended on the petitioner's part; that the petitioner does not have any criminal record; and that no recovery is required to be made from the petitioner. Learned counsel prayed for the petition to be allowed and the ad-interim bail already granted by this Court vide order dated 10.02.2020 to be confirmed.

5. On the other hand learned counsel for the complainant opposed the petition by submitting that marriage of the petitioner with her previous husband Ashfaq Ahmed had ended in the year 2007; that divorce effectiveness certificate was taken in the year 2014; that the accused got renewed her passport on 14.09.2015 showing her husband's name as Ashfaq Ahmed by concealing the factum regarding her divorce; and that in presence of sufficient incriminating material the petitioner is not entitled for grant of extraordinary concession of pre-arrest bail.

6. He further submitted that the petitioner had been involved in money laundering; that the petitioner had a bank account in the U.A.E. in which transactions of hundreds of thousands of US Dollars had taken place; and that the bank account details show that she had given a wrong name of her husband. Learned Counsel requested for the petition to be dismissed.

7. I have heard the learned counsel for the parties as well as learned A.A-G. and have perused the record with their able assistance.

8. According to the F.I.R., the allegation against the petitioner is that on 14.09.2015

passport No. AE-1842372 was issued to her wherein she had falsely used her ex-husband's name. She is stated to have shown her husband's name as Ashfaq Ahmed with whom her marriage had ended in the year 2007, and on 25.09.2008 she had already re-married Saeed Khan Baloch.

9. The F.I.R. against the petitioner was registered after an inquiry on the complaint of respondent No.2/Shah Muhammad Baloch, who is father of petitioner's ex-husband, Saeed Khan Baloch. Admittedly petitioner's marriage with Saeed Khan Baloch has also ended on 16.01.2020. The record reveals that in his complaint petitioner's ex-father-in-law *inter alia* alleged that the petitioner had left her matrimonial abode along with his property and millions of US Dollars in *Benami* bank accounts. The respondent No.2 had admittedly lodged complaints against the sister and brother-in-law of the petitioner.

10. The complaint of respondent No.2 *prima facie* appears to be motivated by family disputes over properties which have arisen after matrimonial disunion. Therefore, in such circumstances, apparently, existence of ulterior motive and *mala fide* cannot be ruled out.

11. The passport in question has already been taken into custody by the investigating agency. The petitioner is ready to cooperate with the investigation. The offence alleged against the petitioner is at the most punishable with imprisonment of three years or fine or with both, as such does not fall in prohibitory clause of 497 (1) of Cr.P.C. Moreover, it is to be kept in view that accused petitioner is a lady and is entitled to certain exceptions under first proviso Sub Section (1) of Section 497, Cr.P.C. Sending her behind the bars at this stage would not serve any useful purpose. Reference in this regard can be

made to case of “Mst.Sonam Naz Vs. The State” (2006 MLD 1871).

12. In view of the above, application for grant of pre-arrest bail is allowed and ad interim bail granted to the petitioner vide order dated 10.02.2020 stands confirmed on the basis of bonds already furnished.

(MIANGUL HASSAN AURANGZEB)
JUDGE

M.A.Baig*