

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 933-B of 2020.

Jehanzeb Khan.

VERSUS

The State, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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02. 31.08.2020. Malik Khalid Mansoor, advocate for the petitioner.
Mr Rabi bin Tariq, State Counsel.
Mr Mumtaz Baig, SI with record.

The petitioner Jehanzeb Khan son of Hazrat Gul has sought post-arrest bail in case, FIR No. 23, dated 12.01.2020, registered under sections 376 of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Koral, Islamabad.

2. Brief facts as alleged in the FIR are that the petitioner had allegedly sexually abuse his own daughters. The complainant was mother of the daughters. Hence, the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter is innocent and has not committed the alleged offence; the petitioner has no concern whatsoever with the offence; the complainant and the victims have recorded their statements that they do not want to pursue the matter; the petitioner has been involved in the instant case

with malafide intention and ulterior motives; story as narrated in the FIR is false, frivolous and vexatious; offence is not attracted against the petitioner; no incriminating material was recovered from the petitioner; the petitioner has no criminal record; offence does not fall within the ambit of prohibitory clause of section 497 of Cr.P.C.; the petitioner has been incarcerated for more than seven months; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; further incarceration of the petitioner will not serve any useful purpose; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; prosecution case is based on malafide; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; there is malice on part of the prosecution; the case against the petitioner falls within the ambit of further inquiry; no specific role has been attributed to the petitioner. Hence prayed for the grant of post arrest bail.

4. The learned State Counsel appeared alongwith Mumtaz Baig, SI. They have opposed the grant of bail. It was argued that; the petitioner has a specific role in the commission of the alleged offence; FIR was lodged promptly; the petitioner is involved in the commission of rape with the victims; the petitioner has committed a heinous offence; statements of the victims have been recorded under section 164 of Cr.P.C., wherein they have specifically nominated the petitioner. The victims have been medically examined. Hence prayed for dismissal of the instant bail petition.

5. The learned counsel for the petitioner and the learned State Counsel has been heard and record perused with their able assistance.

6. There is sufficient incriminating material placed on record to decline the concession of bail. The statements of the victims under section 164 of Cr.P.C. were recorded on 17.01.2020, wherein they had specifically nominated the present petitioner with the commission of the alleged offence. Both the victims were medically examined. Report of medical examination indicates that they were subjected to sexual abuse. Report under section 173 Cr.P.C. has been submitted before the learned trial Court and trial of the case is to commence shortly. The offence falls within the ambit of prohibitory clause of section 497 Cr.P.C. There is sufficient incriminating material available on the record to refuse the concession of bail to the petitioner.

7. In the circumstances this Court is of the opinion that the petitioner is not entitled to the concession of post arrest bail at this stage, hence the same is hereby ***dismissed***. It is, however, expected that the trial Court shall conclude the trial expeditiously.

Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which will obviously not prejudice the proceedings before the learned trial Court.

(CHIEF JUSTICE)

Asad K/*