

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. JUDICIAL DEPARTMENT.

Criminal Misc. No. 797/B/2020.

Baqir Hussain

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	09.07.2020.	Mr. Khalid Mahmood Gothel, Advocate for petitioner. Mr. Hasnain Haider Thaheem, State Counsel. Ch. Qaiser Nazir Sipra, Advocate for respondent No.2. Muhammad Yousaf, S.I./I.O, P.S. Noon, Islamabad.

Through this Crl. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.228, dated 29.10.2019, U/S 377 PPC, P.S. Noon, Islamabad.

2. Brief facts referred in the instant FIR registered on the complaint of Noor Muhammad/respondent No.2 are that petitioner has committed sodomy with his minor son aged 09 years on 29.10.2019, as a result whereof instant FIR has been lodged.

3. Learned counsel for the petitioner contends that this is second post-arrest bail application of the petitioner, whereas earlier Crl. Misc. No.126-B/2020 was dismissed on merits vide order dated 02.03.2020 by this Court with direction to the learned trial Court to conclude the trial preferably within period of three months but the said direction has not been complied with by the trial Court, therefore, instant bail petition has been filed.

4. Conversely, learned State Counsel as well as

learned counsel for respondent No.2 opposed the instant bail application mainly on the ground that petitioner is involved in heinous crime of sodomy and as such he is not entitled for concession of bail mere on ground of non-compliance of direction of this Court for early conclusion of trial; that fresh direction may be issued to the trial Court for early conclusion of the trial.

5. Arguments heard, record perused.

6. Tentative assessment of record reveals that petitioner is involved in hideous crime of sodomy and his first bail application was dismissed by this Court vide order dated 02.03.2020, whereby direction was issued to the trial Court for early conclusion of the trial but due to Covid-19 pandemic direction has not been complied with. It is not denied by the petitioner's side that charge has been framed and there is likelihood of early conclusion of trial.

7. Keeping in view the mandate of Apex Court case reported as 2011 SCMR 1332 (Rehmat Ullah Vs. The State), direction in this case is need of the hour as post arrest bail of petitioner has already been turned down on merits in the previous round and as such non compliance of direction by the trial Court is not a ground for grant of bail especially due to Covid-19 pandemic. Reliance is placed upon PLD 2016 SC 11 (Nisar Ahmed Vs. State) and 2017 MLD 464 (Nasir alias Imran Nasir Vs. State).

8. In view of above, instant petition is dismissed

with direction to the learned trial Court to proceed with the trial on day to day basis during its duty week and if accused is not produced in the Court, his presence be procured through video link facility from the jail. Copy of this order be transmitted to the learned Sessions Judge (West), Islamabad for compliance by all means under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid