

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 60/B/2020.

Dr. Atif Muhammad Khan

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.
	18.02.2020.	Mr. Sajeel Sheryar Swati, Advocate for petitioner. Barrister M. Mumtaz Ali, AAG. Raja Khurram Shahzad, Advocate for complainant. Humaira Aslam, S.I. FIA Cyber Crime, Islamabad.

Through this Crl. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.01, dated 01.01.2020, U/S 20(1), 21(1-b, c, d), 24(1-d) of PECA, 2016 read with Section 509 PPC, P.S. FIA, Cyber Crime Reporting Centre, Islamabad, lodged on the complaint of Ms. Faiza Anwar.

2. Brief facts referred in the above mentioned FIR are that petitioner Dr. Atif Muhammad Khan ex-husband of complainant /respondent No.2 with malafide intentions & ulterior motives created/ developed WhatsApp Profile associated with mobile phone No.+447572799593 and used the same for blackmailing, harassing, threatening and defaming the complainant. The accused has transmitted/ disseminated personal/private/sexually explicit pictures of complainant through the alleged WhatsApp profile associated with the said phone number to the family members of the complainant on their WhatsApp

profiles and as such outraged the modesty of complainant.

3. Learned counsel for the petitioner contends that investigation has been completed in this case and petitioner is no more required for the purpose of investigation; that offence with which petitioner has been charged does not fall within the prohibitory clause of Section 497 Cr.P.C. and as such petitioner is entitled for concession of post-arrest bail as matter of right.

4. Conversely, learned AAG as well as learned counsel for the complainant contends that petitioner is a highly educated person having computer background has disseminated and transferred private sexual explicit pictures of his ex-wife Faiza Anwar to different family members and blackmailed the complainant and as such the offence with which petitioner has been charged is against entire society; that challan has been prepared and same has been transmitted to concerned quarters for onward submission in the Court.

5. Arguments heard, record perused.

6. Tentative assessment of record reveals that complainant/respondent No.2 is ex-wife of petitioner, who got lodged the instant criminal case with the allegations that petitioner has disseminated and transmitted personal/private sexually explicit pictures through WhatsApp profile developed by him on mobile No.+44757279953 for the purpose of blackmailing and harassment and as such outraged her modesty.

7. The record reflects that petitioner was found in possession of mobile which was confiscated during the course of investigation, however, the same contains the sexually explicit images of the complainant and as such petitioner is connected with the hideous crime of exploiting her ex-wife by dissemination of explicit pictures. The forensic report *prima-facie* confirms the allegation of the complainant as number from which those pictures were transmitted to the family members of complainant belongs to the petitioner. FIA has confirmed that IP address of said number was registered on Haier Colleges of Technologies, Dubai, whereby petitioner has served on the said address for the last few months, therefore, no other view could be taken except that digital forensic report has confirmed the allegation at this stage. Respondent/complainant has already obtained the decree for dissolution of marriage and has no relationship with the accused/petitioner. The petitioner is highly educated person who is presently Assistant Professor at NUST University having extra ordinary experience in the field of computer and other similar background.

8. The background of this case clearly spells out that pictures which have been transmitted through information system was disseminated to harm the reputation and privacy of respondent No.2 rather intends to take revenge and blackmail although offence U/S 20, 21 & 24 of PECA provides the maximum

sentence for 03 years with fine and as such these offence do not fall within prohibitory clause of Section 497 Cr.P.C. However, at this stage the conduct of petitioner does not entitle him for grant of post-arrest bail as the accused is *prima-facie* involved in case of dissemination of explicit photographs of his ex-wife to dishonor her in the public and to take revenge, such conduct amounts to humiliate the complainant online which has detrimental effect upon the entire life of complainant rather it amounts to a social stigma. Reliance is placed upon 2018 YLR 329 (Farhan Kamrani Vs. State).

9. In view of above, this Court is not inclined to grant post-arrest bail. Challan has already been processed for submission before the trial Court, therefore, instant post-arrest bail application is hereby dismissed. However, while relying upon 2011 SCMR 1332 (Rehmat Ullah Vs. The State), learned trial Court seized with the matter is directed to conclude the trial within period of six (06) months under intimation to this Court.

(MOHSIN 'AKHTAR KAYANI)
JUDGE