

**ORDER SHEET**  
**ISLAMABAD HIGH COURT, ISLAMABAD**  
**(JUDICIAL DEPARTMENT)**

**Criminal Misc. No.135-B/2020**

Nadir Khan  
Vs.  
The State and another

S.No. of order/ proceeding	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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27.02.2020	Raja Rizwan Abbasi and Gulfam Advocate for the petitioner. Muhammad Azmat Khan, Assistant Director F.I.A GW /F.I.A /HQs, Islamabad. Syed Tayyab Shah, Deputy Attorney General (D.A.G).	
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**GHULAM AZAM QAMBRANI, J.:-** The petitioner namely, Nadir Khan s/o Nasir Ahmad seeks his post arrest bail in case F.I.R No.24, dated 16.07.2019 registered under Sections 10/ 13/ 15/ 20/ 21/ 24 Prevention of Electronic Crimes Act, 2016, read with Sections 109, 120-B, 201, 500, 506, 165-A, 450, 468, 471, 34 of Pakistan Penal Code, 1860 and Section 7 Anti-Terrorism Act, 1997 (hereinafter referred to as the “ATA”), registered at Police Station F.I.A / Cyber Crime Circle, Islamabad.

2. Briefly stated facts of the prosecution case as narrated in the F.I.R are that one Muhammad Arshad Malik, the learned District and Sessions Judge on 15.07.2019, forwarded an application addressed to the Director General F.I.A through Secretary, Ministry

of Law & Justice, Islamabad, with the averments that.-

- i. *It is humbly stated that I was posted as Additional District and Sessions Judge Multan from 2000 to 2003. During the period one Mian Tariq (who had a second hand TV Shop near Fawara Chowk, Multan) trapped me through intoxication/sedation for secretly making a compromising video and manipulated it into an immoral video to blackmail me.*
- ii. *Several years passed in silence and now I learned that about 4/5 months ago that Mian Tariq and his accomplices had sold that video to a Lahore based Pakistan Muslim League leader namely Mian Raza.*
- iii. *I was shocked when basing on that video, a group of people including Nasir Janjua, Nasir Butt, Khurram Yousaf and Mehr Ghulam Jilani started to pressurize and blackmail me to help Mian Nawaz Sharif, who had earlier been convicted by me in the N.A.B references.*
- iv. *As I had already handed down the judgments in references, the blackmailers wanted me to somehow scandalize the whole process of accountability by falsely stating that I had passed my judgments under pressure from certain quarters, in order to get some benefit to Mian Nawaz Sharif. The blackmailers also forced me to meet Mian Nawaz Sharif at Jati Umra Lahore during April 2017 and Hussain Nawaz Sharif at Madina during the month of Ramzan.*
- v. *It has now transpired that during these meetings the blackmailers had been secretly recording several audios and videos and through blackmailing they even forced me to say words which could have furthered their nefarious designs.*
- vi. *On 06.07.2019, I was shocked to see Ms. Mariam Nawaz along with the senior leadership of PML-N including Mian Shahbaz Sharif, Shahid Khaqan Abbasi, Ahsan Iqbal, Khawaja Asif, Pervaiz Rasheed, Rana Tanvir and Uzma Bukhari and others holding a*

*press conference at Lahore wherein a secretly and illegally recorded and manipulated video was played thereby unleashing a malicious propaganda against not only my personal dignity of my family but also against the institution of judiciary and the process of accountability.*

- vii. The above mentioned actions by all individuals involved and their accomplices/associates have not only tarnished my dignity and honor of my family and social life but have also attempted to adversely affect my service career while endangering the life of my complete family.*
- viii. Even the alleged video displayed in the press conference by Ms Maryam Nawaz and others who were sitting with her, is materially tampered and has exposed all of them to electronic forgery, electronic fraud, tampering an unauthorized used and misuse. The culprits are also guilty of offences touching upon the modesty of a natural person. The impugned actions are malicious and those colluding, aiding and abetting are also guilty of the same offences.*
- ix. It is therefore, requested that immediate action be taken against all above named individuals and their accomplices and register a criminal case for illegally recording audio and video images without permission with intent of blackmailing and using the same for criminal intimidation and subverting the course of justice, and further dissemination with intent to malign my personal respect and dignity of State institutions."*

3. The learned counsel for the petitioner has contended that the petitioner is not nominated in the F.I.R; the alleged occurrence is stated to have been committed in the year 2000-2003 while F.I.R has been registered after unexplained delay of more than 16 years; no incriminating material/ evidence is

available on record to connect the petitioner with the commission of the alleged offences; allegations against the petitioner are that he was an employee of one of the co-accused and he pushed the button of video camera, concealed at a particular place for recording the activity, however regarding the same fact, there is no evidence with the prosecution; that it is hearsay evidence; statement of the petitioner recorded under Section 164 of Cr.P.C. will not be helpful to the prosecution; that the investigation qua the petitioner has been completed and he is no more required for the purposes thereof; the petitioner has been incarcerated since his arrest; further incarceration of the petitioner will not serve any useful purpose; recovery if any is fake and concocted; the petitioner has no criminal history; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the case against the petitioner is based on malafide and ulterior motives of the complainant; the offences do not fall within the ambit of prohibitory clause of section 497 of Cr.P.C.; the offences are not attracted against the petitioner; report under Section 173 of Cr.P.C. has been submitted before the learned trial Court; the case against the petitioner is that of further inquiry; story as narrated in the FIR is false, frivolous

and baseless; hence the learned counsel urges the petitioner to be released on bail.

4. Conversely, the learned Deputy Attorney General has vehemently opposed the bail petition and contended that the petitioner was an employee of the co-accused namely, Mian Tariq and is fully involved in the commission of the offences; the petitioner has deliberately switched on the hidden camera for recording video; the said act of the petitioner has destroyed the honour and modesty of the complainant not only in family but also in the community; investigation qua the petitioner has been completed and report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the trial of the case will be concluded shortly; hence urges for dismissal of bail petition.

5. We have heard the learned counsels for the parties and have perused record with their able assistance.

6. The allegation against the present petitioner is that he facilitated the main accused in the commission of the alleged offences. There is nothing on record to show that the present petitioner has switched on the hidden camera for recording the objectionable video of the complainant. Furthermore,

the petitioner is not the main accused. Investigation qua the petitioner has been completed and further incarceration of the latter will not serve any useful purpose. Report under Section 173 of Cr.P.C. has been submitted before the learned trial Court. There is no specific allegation and evidence on record for allegedly blackmailing the complainant by the petitioner, which makes a case of further inquiry into the guilt of petitioner. Whether or not the offences mentioned in the FIR are attracted to the extent of the present petitioner, also needs further probe. The other co-accused of the petitioner have been enlarged on bail and keeping in view the rule of consistency, the petitioner is also entitled to the concession of same relief. Moreover, deeper appreciation of the evidence at bail stage is not permissible. The petitioner does not have a criminal record. His continued custody is not likely to serve any beneficial purpose at this stage. Nothing has been placed on record to indicate that the petitioner may abscond if he is released on bail. We are, therefore, of the opinion that the petitioner is entitled to be released on bail by extending the concession of bail.

7. It has been aptly observed by the Hon'ble Supreme Court of Pakistan in the case reported as

**"Manzoor and 4-others vs. The State" [PLD 1972**

**Supreme Court 81], as follows:-**

*"It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run."*

8. For what has been discussed above, we **allow** the petition and directed the petitioner to be released on bail, subject to furnishing bail bonds in the sum of Rs.3,00,000/- (three lac) and PR of the like amount with one surety in the like amount to the satisfaction of the learned trial Court

9. It is needless to mention here that the observations made hereinabove are tentative in nature and shall not design to influence the trial.

10. The petitioner shall be at liberty to deposit cash surety as per policy of this Court.

**(AAMER FAROOQ)**  
**JUDGE**

**(GHULAM AZAM QAMBERANI)**  
**JUDGE**

**Rana Mift.**\*