

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 687-B of 2020.

Waqas Khan

Vs

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.
------------------------------	----------------------------	---

19-05.2020.

Mr Farhat Ullah Jan, Advocate for petitioner.
Mr M. Atif Khokhar, State Counsel.
Mr Irfan, ASI with record.

The petitioner Waqas Khan son of Said Khan has sought post arrest bail in case F.I.R. No. 62, dated 06-02-2020 registered under sections 377, 34 of the Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Sabzi Mandi, Islamabad.

2. Brief facts, as alleged in the FIR are that on 06-02-2020, the petitioner alongwith co-accused had committed sodomy. Hence the instant petition.

3. The learned counsel for the petitioner has contended that; the latter is innocent and has not committed any offence; the petitioner has been falsely implicated in the criminal case; DNA report is not in affirmative; the petitioner has been incarcerated for more than two months; allegations against the petitioner are false, frivolous, baseless and concocted; the report

under section 173 of Cr.P.C. has been submitted before the learned trial Court; investigations qua the petitioner have been completed and he is no more required for the purpose of further investigations; the petitioner has no criminal history; the petitioner is previously non-convict; there are sufficient grounds for further inquiry into the guilt of the petitioner; hence prays for grant of post arrest bail.

4. The learned State Counsel appeared alongwith Ifran, ASI. They have contended that; sufficient material is available on record to connect the petitioner with the commission of offence; in the DNA report, the Analyst has recorded reasons for absence of the evidence on the samples; the offence is heinous in nature and affects the society; the petitioner has failed to point out any malafide on part of the prosecution; hence urged for dismissal of the present bail application.

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

6. The petitioner is nominated in the FIR with a specific role. There is nothing on record to show the relationship of the parties was such that the petitioner may have been falsely implicated. The statement of the minor also supports the allegations mentioned in the complaint. Report under section 173 of Cr.P.C. has been submitted and the trial is about to commence. There is sufficient incriminating material placed on record to decline post arrest bail. Nothing is available on record to show

that the officials may have arrested the petitioner on the basis of malafide. The offence falls within the prohibitory clause of section 497 Cr.P.C. This are, therefore, not inclined to extend the concession of bail.

7. In the circumstances as mentioned above, this petition is without merit and is, therefore, accordingly ***dismissed.***

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)

*Luqman Khan/**