

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 879-B/2020
Zubair Amjad
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.
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03.	12.08.2020	Malik Tahir Mehmood, Advocate for the petitioner, Ch. Muhammad Tahir Mehmood, learned AAG with Gulzar Ahmad SI, FIA Cyber Crime Circle.
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This is post-arrest bail petition by accused-petitioner (Zubair Amjad) in case FIR No.17, dated 14.07.2020, under Sections 13 & 14 of PECA 2016 read with Sections 420, 468, 471 PPC, Police Station FIA Cyber Crime Circle, Islamabad.

2. According to the allegations, set-forth in the FIR, on 14.07.2020, at about 07:00 pm, Syed Shahid Hassan, Deputy Director ACC, FIA Islamabad Zone lodged complaint with FIA Cyber Crime Reporting Center, Islamabad to the effect that petitioner is running an office with the name and style *“Zubair Computer and Photostat, Tarrar Chowk, Kamalia”* and with malafide intention and ulterior motives posted fake advertisements of jobs in FIA along with his whatsapp No.0331-7731011 and on his facebook profile namely *“Zubair Amjad Zaibi”* and on associated facebook page *“just job information”* and enticed the general public for jobs and thus, committed fraud. During the course of investigation, relevant electronic equipments were taken into possession by the FIA authorities.

3. Learned counsel for the petitioner contends that the very registration of FIR is tainted with *malafide* on the part of FIA, that there is no allegation of receiving money from the general public; there is no evidence to connect the petitioner with the commission of alleged offence; petitioner is behind the bars for about one month; that the offences do not fall within the ambit of prohibitory clause; investigation is complete and the petitioner is not required for further probe, therefore, entitled to the concession of bail.

4. On the other hand, learned AAG contends that the petitioner is nominated in the FIR with specific role; the articles used for enticing the general public were also recovered from his possession; no malice or malafide on the part of the FIA has even been alleged; that cell phone along with SIM and desktop CPU (Computer) allegedly used for posting advertisements were recovered which, *prima facie*, connects the petitioner with the commission of alleged offence, therefore, he is not entitled to the concession of bail.

5. On being questioned, the Investigating Officer apprised that the investigation is complete and the challan is ready for submission before the court of competent jurisdiction.

6. Arguments heard, record perused.

7. Record reveals that there was allegation of enticing the general public for having jobs in the FIA, when confronted, Investigation Officer admitted that no material had come on record regarding taking of money from anyone by the

petitioner in response of said advertisements. The offences under Sections 420 & 471 PPC are bailable. The offences under Sections 13 & 14 of the PECA, 2016 entail punishment up to 2 and 3 years respectively and offence under Section 468 PPC up to 7 years, as such are not covered within the ambit of prohibitory clause of Section 497 of Cr. PC wherein bail is to be granted as a matter of right.

8. The Hon'ble Supreme Court of Pakistan in a recent judgment reported as "Muhammad Ramzan alias Jani V. The State and others" (2020 SCMR 717) has laid down the principle by holding that when alleged offence is outside the prohibitory clause of Section 497 Cr. PC, grant of bail is a rule and refusal is an exception.

9. Moreover, there is no chance that evidence will be destroyed or tampered by the petitioner. The investigation has been completed and no purpose would be served to keep the petitioner in jail for indefinite period.

10. In view of above, instant bail petition is allowed. The petitioner (Zubair Amjad) is admitted to post-arrest bail subject to furnishing bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

11. Needless to mention that above is only tentative assessment for the purpose of instant bail petition and shall not effect/influence trial of the case in any manner.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE