

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

CRL. MISC. NO. 662-B of 2020.

Tariq Mahmood.

VERSUS

The State, etc

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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02.06.2020. Malik Ahmed Nawaz Awan and Mr Muhammad Asif,
Advocates for the petitioner.
Syed Muhammad Tayyab, Deputy Attorney General.
Mr Ijaz Ahmed Sheikh, A.D. (CTN) FIA.
Mr M. Azmat Khan, A.D./I.O. (CTN), FIA.

Tariq Mahmood son of Saif-ud-Din has sought post arrest
bail in case F.I.R. No. 24, dated 16.07.2019, registered under sections
34,109,120-B,165-A,201,420,468,471,500,506 of Pakistan Penal Code,
1860 and sections 6,10,13,15,20,21 and 24 of the Prevention of Electronic
Crimes Act, 2016 and section 7 of the Anti-Terrorism Act, 1997
(hereinafter referred to as the "**FIR**") at Police Station FIA, Cyber Crime
Islamabad Circle, Islamabad.

2. Brief facts as narrated in the FIR are that the petitioner in
connivance with other co-accused was alleged to have illegally recorded
audio and video images without permission of the complainant with intent
to blackmail, criminally intimidate and subversion the course of justice. It
was further stated that the petitioner had disseminated the same with
intent to malign personal dignity of the complainant and dignity of the
State/Institutions. Hence the instant petition.

3. The learned counsel for the petitioner has contended that; the petitioner has been falsely involved in the instant case; story as narrated in the FIR is false, frivolous and vexatious; the petitioner has been made a scapegoat in the instant case; real culprits have not been made as accused in the instant case; section 7-A of Anti-Terrorism Act, 1997 is not attracted in the instant case; sections 165-A, 201, 420, 500, 506 and 471 are bailable, whereas sections 468 and 120-B are not attracted against the present petitioner; sections 10 and 21 of the Prevention of Electronics Act, 2016 are non-bailable, whereas remaining sections are bailable; sections 10 and 21 of the Prevention of Electronics Act, 2016 are not attracted against the petitioner; the petitioner is also entitled to the concession of post arrest bail on medical grounds; the 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 same relief; no incriminating material was recovered from the petitioner; the petitioner has been incarcerated for more than ten months; investigations qua the petitioner have been completed and he is no more required for purposes thereof; further incarceration of the petitioner will not serve any useful purpose; the petitioner has not committed the alleged offences; the petitioner has not used an electronic device by transmitting explicit material relating to the complainant; 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.; 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 probe; hence the learned counsel urges the petitioner to be released on bail.

4. The learned Deputy Attorney General appeared alongwith Ijaz Ahmed Sheikh and M. Azmat Khan, Assistant Directors, FIA. They have contended that; recovery has been affected from the petitioner; the petitioner has been specifically nominated in the FIR; the petitioner has deliberately uploaded personal and objectionable pictures of the complainant; the said act of the petitioner has destroyed the honour and modesty of the complainant not only in family but also in the community and department; investigations qua the petitioner have been completed and report under section 173 of Cr.P.C. has been submitted before the learned trial Court; charge has been framed and the trial of the case will be concluded shortly; hence urges for dismissal of bail.

5. Perusal of record shows that the co-accused of the petitioner namely, Nadir Khan was enlarged on bail vide order, dated 27.02.2020. The case of the present petitioner is at par with the co-accused. The allegation against the present petitioner is that he and his accomplices had sold objectionable video to Mian Raza. The petitioner was arrested in this case on 16.07.2019 and since then he has been incarcerated. Perusal of record does not show that the number/sim used for sending the objectionable pictures and messages was in the name of the petitioner or in his use. Investigations against the petitioner have 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. Whether or not the offences mentioned in the FIR are attracted to the extent of the present petitioner needs further probe. Deeper

appreciation of evidence at bail stage is not permissible. The petitioner does not have a criminal record. The continued custody of the petitioner is not likely to serve any useful purpose at this stage. Nothing has been placed on record to indicate that the petitioner may abscond or tamper with the prosecution evidence, if he is released on bail. This Court is, therefore, of the opinion that the petitioner is entitled to be released by extending the concession of bail.

6. It has been aptly observed by the august Supreme Court in the case of "*Manzoor and 04 others vs. The State*" reported as [PLD 1972 S.C. 81] as follows:

"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".

In the light of the facts and circumstances of the present case, refusal of bail will tantamount to punishing the petitioner.

7. In the circumstances as mentioned above, this petition is **allowed** and the petitioner is **admitted** to bail, subject to furnishing bail bonds in the sum of Rs.1,00,000/- (Rupees one hundred thousand only) with one surety in the like amount to the satisfaction of the learned trial Court.

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.

**(AAMER FAROOQ)
JUDGE**

(CHIEF JUSTICE)

*Asad K/**

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