

HCJD/C-121  
**ORDER SHEET**

**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**CRL. MISC. NO. 625-B of 2020.**

**Sohaib Satti.**

*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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06.04.2020.

Mr Hasan Rashid Qamar, Advocate for  
the petitioner.  
Mr M. Atif Khokhar, State Counsel.  
Mr Muhammad Kamran Abbasi,  
complainant in person.  
Mr Darya Khan, SI with record.

The petitioner Sohaib Satti son of Ziaqat Mehmood Anjum has sought post arrest bail in case FIR No. 276, dated 25.08.2019, registered under sections 377-B, 506(ii), 292-B and 292-C of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**"), at Police Station Aabpara, Islamabad.

2. Brief facts, as alleged in the FIR are that the present petitioner alongwith the other co-accused/accomplice made an objectionable video of the complainant's son namely, Zain-ul-Abideen. It is alleged that now they are threatening to viral the said video. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter is a student and class fellow of the alleged victim; no role has been attributed to the present petitioner; no incriminating material was

recovered from the petitioner; the petitioner had not viral the alleged video of the victim; the petitioner has friendly relationship with the victim and was not involved in blackmailing; the petitioner has no criminal record; the petitioner is also entitled to the concession of bail on the ground of outbreak of Covid-19 and deteriorating conditions in the prisons; offences are not attracted against the present petitioner; offences do not fall within the ambit of prohibitory clause of section 497 of Cr.P.C.; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the petitioner has been involved in the instant case with malafide intention and ulterior motives; the petitioner is innocent and has not committed the alleged offences; the petitioner was not present at the crime scene; the petitioner has been falsely involved in the instant case just to harass and humiliate him; the petitioner has been incarcerated for the last about two months; investigation qua the petitioner has been completed and he is no more required for the purposes thereof; there is no direct or indirect evidence against the petitioner regarding the alleged commission of offences; incomplete report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the case against the petitioner comes within the ambit of further probe; hence urges for the grant of bail.

4. The learned State Counsel appeared alongwith the complainant and Darya Khan SI. They have opposed the grant of bail. They have argued that the conduct of the petitioner brings his case within the exceptions to the general rule that in case of offences falling within the non-prohibitory clause bail may not be refused; the petitioner has committed a heinous offence; the petitioner is nominated in the FIR with specific role; the petitioner has not been able to point out any malafide on

part of the complainant or the police for registration of the FIR. The learned State Counsel has prayed for dismissal of the petition.

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

6. The offences included in the FIR are, admittedly of the category which falls within the non-prohibitory clause of Section 497 Cr.P.C. By now the law and principles for granting bail in such cases are well settled. It is important to note that in the case of "*Zafar Iqbal vs. Muhammad Anwar and others*" [2009 SCMR 1488], a larger Bench of the Honourable Supreme Court has elucidated the principles for considering the grant of bail, where offences fall within the non-prohibitory clause. In the light of the said principles it has been held that where offences fall within the non-prohibitory clause, the granting of bail has to be considered favourably as a rule, but may be declined in exceptional cases. Examples, though not exhaustive, of such extraordinary and exceptional cases have further been listed as follows:

- i) Where there is likelihood of abscondance of the accused;
- ii) Where there is apprehension of the accused tampering with the prosecution evidence;
- iii) Where there is danger of the offence being repeated, if the accused is released on bail; and
- iv) Where the accused is a previous convict.

7. The Hon'ble Supreme Court of Pakistan reaffirmed and reiterated the principles as laid down in the earlier judgments of "*Subhan Khan Versus the State*" [2002 SCMR 1797] and "*Tariq Bashir and five other Versus The State*" [PLD 1995 SC 34]. The said principles have been consistently followed. Reliance may also be placed on the case of "*Riaz Jafar Natiq Versus Muhammad Nadeem Dar and others*" [2011 SCMR 1708].

8. Perusal of record reveals that exact date of making of the objectionable video of the victim is not mentioned in the FIR. The present petitioner was not arrested from the crime scene. Furthermore, the alleged video has not been recovered from the accused petitioner. The role of the petitioner in the circumstances definitely requires further probe. Investigations qua the petitioner have been completed. Report under section 173 of Cr.P.C. has been submitted before the learned trial Court. The petitioner has been incarcerated for almost two months. The petitioner is a student and his continued incarceration will not serve any useful purpose. The Investigating Officer could not show sufficient incriminating material against the petitioner which may have been collected during the course of investigations. The role of the petitioner relating to the alleged offence definitely requires further probe.

9. It has been aptly observed by the august Supreme Court in the case of "*Manzoor and 04 others versus 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.

10. 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.50,000/- (Rupees fifty 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.

**CHIEF JUSTICE**

*Asad K/\**