

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

Criminal Miscellaneous No.43-B/2020

Shahbaz Ahmad
Vs.
The State, etc

Petitioner By:	Mr. M. Asif Gondal, Advocate.
Respondent No.2 By:	Rao Abdur Rehman, Advocate.
State By:	Mr. Sadaqat Ali Jahangir, Advocate; Mubarak, Inspector.
Date of Hearing:	04.02.2020.

GHULAM AZAM QAMBRANJI: The petitioner namely Shahbaz Ahmad seeks post arrest bail in case F.I.R No.451/2019 dated 04.09.2019 under Section 506, 387, 34 P.P.C and Section 25-D of Telegraph Act, 1885 registered with Police Station Industrial Area, Islamabad.

2. Briefly, prosecution case is that on 04.09.2019, one Adalat Hussain/complainant moved an application to the S.H.O Police Station Industrial Area, Islamabad, with the averments that from last two days, he is receiving threatening text messages and calls from mobile No.0312-1666156 on his own mobile No.0345-5899051; that on 29.08.2019 at about 11:32am, he received a call from said mobile number without disclosing his identity, extended threats for death and also threats for abduction of his son; it has been further alleged that the complainant through his own sources confirmed that the same number

is registered in the name of one Murtaza Ali s/o TasleemAhmed who is a stranger for him and his family members hence, the instant F.I.R.

3. After usual investigation the petitioner alongwith four other co-accused persons were transmitted to judicial custody on 10.09.2019; thereafter, the petitioner filed bail application before the learned Court of Special Judge Anti-Terrorism-II, Islamabad, which was dismissed vide order dated 16.12.2019.

4. The learned counsel for the petitioner argued that there is inordinate and unexplained delay of seven days which cast doubts on the veracity of the prosecution story; that nothing has been recovered from the possession of petitioner and he has no nexus with the commission of the alleged offence and lastly, contended that the co-accused namely Murtaza Ali has been granted bail, therefore, principle of consistency exists on the basis whereof the petitioner is entitled for the concession of grant of bail.

5. On the other hand, learned State counsel vehemently opposed the contentions raised by learned counsel for the petitioner contending that the petitioner is involved in the commission of offence and the alleged offences are heinous one and prayed for dismissal of the petition.

6. We have heard that arguments of the learned counsel for the parties and have gone through the available record.

7. The record transpires that on 16.09.2019, a mobile phone bearing I.M.E.I No.4496091204513 was recovered on the pointation of co-accused Ibrar Ahmedand different SIM numbers have also been recovered from accused Murtaza Ali and allegedly from the

petitioner with the allegation that threatening calls were received for the demand of "Bhatta". Section 506 P.P.C and Section 25-D Telegraph Act are bailable in nature while punishment provided for Section 387 P.P.C does not fall within the prohibitory clause of 497 Cr.P.C.

8. Perusal of the record reveals that the only piece of evidence available on record is Call Data Record. The messages have been notified which have been conveyed through an unknown number but it is yet to be determined as to how and when the messages were conveyed. The petitioner is no more required to the prosecution for any probe, challan has already been submitted and the trial is at initial stage. Deeper appreciation at bail stage is not permissible and we are required to make tentative assessment of the evidence available on record. Guilt of the petitioner is yet to be determined by the learned Trial Court after recording of prosecution evidence. As such, case of petitioner falls within ambit of further inquiry in terms of Section 497 (2) Cr.P.C. The accused, Mumtaz Ali has already been granted bail, as such, the principle of consistency also exists, therefore, the petitioner is entitled for the concession of post arrest bail. Resultantly, we **allow** this petition. The petitioner is admitted to post arrest bail subject to his furnishing bail bonds in the sum of Rs.2,00,000/- (Rupees two lac) with two sureties in the like amount to the satisfaction of learned Trial Court.

(AAMER FAROOQ)
JUDGE

(GHULAM AZAM QAMBRANI)
JUDGE

"Rana.M.Ift."