

Judgment Sheet
IN THE PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)
Cr.M BA No. 3796-P/2019
Bilal Jan Vs the State

Date of hearing: 01.01.2020

Mr. Niaz Ali Khan, Advocate, for the petitioner.

Malik Akhtar Hussain Awan, AAG, for the Sate.

JUDGMENT

AHMAD ALI, J. Through the instant petition, the accused-petitioner Bilal Jan, has sought his post arrest bail in case FIR No.864 dated 15.12.2019 u/s 371-AB PPC, registered against him at P.S. University Town, Peshawar. Same relief was, however, declined to him by the learned Trial Court vide order dated 21.12.2019.

2. Brief facts of the case, as per FIR, are that the complainant Wali Khan, SI, alongwith other police officials including a lady constable, pursuant to general complaints regarding prostitution and selling/buying of girls for the purpose thereof, raided the place of occurrence; apprehended two girls and two boys, including the present petitioner, from there in objectionable condition with certain incriminating articles. All the accused were arrested and on the basis of murasila, the FIR ibid was registered against them.

3. Arguments heard and record gone through.

4. It was the story of prosecution that there were general complaints regarding prostitution in the said plaza, but, record is silent about such complaints. Besides, no statement of the

owner of the plaza has been recorded so as to substantiate the stance of the complainant, at least, at this stage.

5. The allegations, as spelt out from the FIR and the offence for which the petitioner is charged require further inquiry, because Section 371-AB PPC provides selling/buying persons for the purpose of prostitution while the petitioner is shown merely present in objectionable condition alongwith a girl. Presently there is nothing on record in the shape of any confession, so as to ascertain whether above section of law could be applied to his case or otherwise. Besides, there is no medical report of accused available on record to support the version of complainant.

6. The petitioner, after initial remand, has already been sent to the judicial lock up and he is no more required for further investigation. No doubt, in similar situation, this court in the cases of Mst. Kainat Vs. State (2016 YLR 974) and Salman Ghazanfar Vs. The State (2018 MLD 1446) has granted bail. The co-accused in the instant case has already been granted bail by the learned Trial Court vide order dated 21.12.2019.

7. In addition, it was observed that no search warrant has been obtained from the learned Judicial Magistrate; and having not done so, the case of petitioner would require further inquiry as required by Sub-Section(2) of Section 497 Cr.P.C. entitling the accused to the concession of bail.

8. For the reasons stated above and on tentative assessment of material available on file, a case arguable for the grant of

bail, is made out. Consequently, this petition is allowed and the petitioner is admitted to bail subject to furnishing bail bonds in the sum of Rs.100,000/- with two sureties each in the like amount to the satisfaction of learned Illaqa/Duty Magistrate. The local status and financial strength of the sureties shall be ensured before admission of bail bonds.

9. These are the detailed reasons of short order of even date.

Announced:
01.01.2020



JUDGE