

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.277 of 2020

*(Against order dated 18.02.2020
passed by the Islamabad High Court
Islamabad in CrI. Misc. No.
60-B/2020)*

Dr. Atif Muhammad Khan

...Petitioner(s)

Versus

The State through D.A.G. & another

...Respondent(s)

For the Petitioner(s):

Mr. Sajeel Sheryar Swati, ASC
Syed Rifaqat Hussain Shah, AOR

For the State:

Mr. Aamir-ur-Rehman,
Additional Attorney General for Pakistan
along with Qaiser Masood Addl. Director
FIA, M. Salman Deputy Director FIA
Maqsood Ahmed, Forensic Officer,
Humaira Aslam SI, FIA

For the Complainant:

Mr. M. Junaid Akhtar, ASC

Date of hearing:

16.04.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- Behind bars since 01.01.2020, Dr. Atif Mehmood Khan, petitioner, seeks admission to bail; member of academia, he is blamed by his former wife Ms. Fozia Anwar for disseminating her explicit photographs through a WhatsApp profile, transmitted from a cell phone number issued by a United Kingdom Service Provider; the pictures accompanied threatening/abusive messages, circulated among the family members with an obvious motive to humiliate and embarrass the lady. During investigation, petitioner led to the recovery of a number of articles, secured vide inventory dated 02.01.2020 that included a mobile phone handset along with four SIMs (Subscriber Identity Modules) as well as a

memory card with different IMEI numbers, dispatched to National Response Center for Cyber Crimes (NR3C), Federation Investigation Agency Islamabad for digital forensic examination. As per report dated 31.02.2020, paraphernalia recovered during the investigation did not indicate to have generated the impugned material, on the basis whereof, the Investigating Officer, vide case diary No.10 dated 12.2.2020, exonerated the petitioner and accordingly placed him in Column 2 of the report under Section 173 of the Code of Criminal Procedure 1898.

2. Heard. Record perused.

3. Bad blood between the erstwhile spouses though a possible motive to target the complainant, nonetheless, requires independent evidence to *prima facie* frame the petitioner with the charge; forensic evidence, the only tool to sustain the charge, for the present, is faltering as the findings recorded by the Federal Investigation Agency are in the negative. Ch. Aamir-ur-Rehman, learned Additional Attorney General for Pakistan has very fairly conceded the point. Argument by the learned counsel for the complainant that the petitioner alone had an axe to grind, a circumstance by itself sufficient to drive home the charge, is beside the mark. Petitioner's culpability, after prosecution's failure on forensic side, can best be settled after recording of evidence and, thus, his incarceration till conclusion thereof, would be inexpedient. A case for grant of bail stands made out. Criminal Petition is converted into appeal and allowed; the petitioner shall be released on bail upon furnishing a bond in the sum of Rs.500,000/- with one surety in the like amount to the satisfaction of the learned trial Court/Duty Magistrate.

Judge

Judge

Islamabad, the
16th April, 2020
Not approved for reporting
Azmat/-