

JUDGMENT SHEETIN THE GILGIT BALITSTAN CHIEF COURT, GILGIT
JUDICIAL DEPARTMENTCr.Misc. No. 291 of 2019.

Ghulam Hussain s/o Ali Muhammad R/o Chowar Tehsil Chorbat presently confined in District Jail Skardu.

Petitioner/accusedVERSUS

The State.

Respondent

**OFFENCE UNDER SECTION 376/493-A/377 PPC
VIDE FIR NO.05/2019 POLICE STATION SIKSA
DISTRICT GHANCHE.**

APPLICATION UNDER SECTION 497 Cr.PC FOR GRANT OF BAIL.

Present:- Mr. Muhammad Saleem Advocate, for the petitioner.

Dy. Advocate General for the State.

Date of hearing:- 29-01-2020

Date of pronouncement of judgment:- 31-01-2020

O R D E R.

Ali Baig----J - - - Through the instant bail petition filed under section 497 Cr.PC the petitioner/accused namely Ghulam Hussain son of Ali Muhammad seeks post arrest bail in case FIR No.05/2019 registered at Police Station Siksa District Ghanche under sections 376/493-A/377-B PPC on the basis of inquiry report conducted by Assistant Commissioner Chorbat District Ghanche and Social Welfare Officer Ghanche.

2. Prior to that the petitioner had filed bail petition u/s 497 Cr.PC for grant of post arrest bail in the court of the learned Sessions Judge, Ghanche which was declined

by the learned trial court vide bail order dated 11.11.2019. Feeling aggrieved and dissatisfied with the aforesaid bail order of the learned trial court, the petitioner has filed the instant bail petition in this court.

3. Precise facts of prosecution case have been narrated by the learned trial court in para No. 2 of its bail order dated 9.11.2019 which are re-produced for convenience as under:-

Brief facts of the case against the petitioner/accused are that during the month of September, 2019, report made viral on social media that accused Ghulam Hussain, a teacher in Middle School Thongmus, Chorbat has contracted marriage with his 4th class underage student namely Mst. Khadija. On such report Mr. Ghulam Nabi, Incharge Social Welfare Organization, Baltistan Region conducted an inquiry and submitted his report on 16.09.2019 to the concerned quarters inter alia the SP Ghanche. On the directives of Deputy Commissioner, Ghanche, the Assistant Commissioner, Chorbat also conducted a discreet inquiry and submitted his report. These reports contained findings that actually no nikah was solemnized rather the accused by deceitful means had developed nefarious and immoral affairs with his female underage student and when the rumors spread like a fire in the jungle, he managed to put the matter under carpet by brokering compromise with the poor parents of the girl on 01.09.2019 showing to have divorced the girl by paying an amount of Rs. 50,000/- besides the dower amount. The Deputy Commissioner, Ghanche forwarded these reports to high ups endorsing copies to the SP Ghanche. The local police also woke-up and after conducting an investigation under section 157 Cr.PC about the truthfulness of the occurrence, registered FIR under section 376 Cr.PC. However, on medical examination, the hymen of the victim girl was reported to be intact and no sign of sexual intercourse found. Accordingly, police

dropped the charge of offence under section 376 PPC and incorporated offences under section 493-A and 377-B of the Pakistan Penal Code. After usual investigation the accused was committed to judicial custody.

4. The learned counsel appearing on behalf of the petitioner/accused contended that there is one and half month unexplained delay in lodging of FIR. The learned counsel for the petitioner/accused further argued that medico legal report of the petitioner is negative, hence the case of the petitioner requires further inquiry into his guilt. The learned counsel for the petitioner further argued that neither victim nor his father has lodged FIR against the petitioner/accused rather FIR has been lodged on the basis of the inquiry reports conducted by A.C Chorbat and Social Welfare Officer Ghanche, hence the petitioner is entitled for concession of bail.

5. On the contrary, the learned Dy. Advocate General controverted the arguments advanced by the learned counsel for the petitioner by contending that the petitioner has committed an offence of moral turpitude with his minor female student, therefore he does not deserve for concession of bail. The learned Dy. Advocate General further argued that FIR has been lodged against the petitioner on the basis of inquiry report submitted by impartial officerS i.e. A.C Chorbat and Social Welfare Officer Ghanche, hence question of false implication of the accused /petitioner does not arise.

6. I have given my anxious consideration to the arguments of the learned counsel for the parties and perused the available record with their able assistance.

7. From perusal of statement of victim girl namely Khadija recorded u/s 161 Cr.PC, it shows that the victim has fully implicated the petitioner/accused in this case. Moreover, the Deputy Commissioner Ghanche had appointed Mr.

Muhammad Raza Assistance Commissioner Chorbat as inquiry officer to conduct inquiry regarding the occurrence and the above name inquiry officer found that the petitioner has committed alleged offence and he has recommended for taking legal action against the petitioner/accused. Further more Social Welfare Officer Ghanche has also conducted an inquiry in the matter and he found that the petitioner/accused has committed nefarious and immoral offence with the his minor student, thus the petitioner/accused does not deserve for concession of post arrest bail.

8. From tentative assessment of incriminating materials collected by the prosecution during investigation, it transpires that the petitioner/accused is *prima facie* connected with alleged offence falling under prohibitory clause of section 497 Cr.PC. Moreover the petitioner/accused has committed an offence of moral turpitude bringing bad name to noble profession of teaching.

9. For what has been discussed above, this petition being bereft of merit is hereby dismissed. File

Announced.
31-01-2020

Vacation Judge