

**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**

**PRESENT:**

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL  
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

AFR

**CRIMINAL PETITION NO. 978 OF 2021**

(Against the order dated 15.07.2021 of the Peshawar High Court,  
Peshawar passed in Cr.M.(BA) No.748-A/2021)

Fakhar Zaman

...Petitioner(s)

**Versus**

The State through D.A.G. and another

...Respondent(s)

For the Petitioner(s): Mr. Muhammad Nawaz Khan, ASC  
Syed Rifaqat Hussain Shah, AOR

For the State: Syed Nayyab Hussain Gardezi, DAG  
Syeda Pakeeza, S.I. FIA

For the Complainant(s): Mr. Muhammad Junaid Akhtar, ASC

Date of Hearing: 17.09.2021

**ORDER**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J.-** This petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has been filed against the impugned order dated 15.07.2021 passed by the learned Peshawar High Court, Peshawar whereby the post-arrest bail of the petitioner was declined.

2. As per the contents of the crime report registered vide FIR No. 15/2021 dated 03.06.2021 under Sections 20/21/24 of Prevention of Electronic Crime Act, 2016 and Section 109 PPC at Police Station Cyber Crime Reporting Center (CCRC) FIA, Abbottabad, it is alleged that the petitioner was instrumental in posting photographs of the complainant using cellular device and as such caused sexual harassment to the complainant. During the course of investigation, the petitioner was taken into custody on 08.06.2021 and as such he is behind the bars. He applied for post-arrest bail which was declined by

the learned Trial Court. The same relief was also declined to him by the learned High Court vide impugned order.

3. At the very outset it has been contended by the learned counsel for the petitioner that the petitioner has been falsely roped in this case against the actual facts and circumstances. Contends that from the bare reading of the accusation against the petitioner, no case of sexual harassment is made out. Further contends that the petitioner is behind the bars since more than 03 months and the maximum punishment under the statute for the offence under which the petitioner is charged is 05 years. Lastly it is contended that as the offence does not fall within the prohibitory clause, therefore, the petitioner is entitled for concession of bail prayed for.

4. On the other hand, the learned Law Officer, assisted by the learned counsel for the complainant, has contended that it is a crime against the society and such like people are not entitled to any concession. Contends that the life of womenfolk is at stake because of the act of the petitioner. Further contends that the trend of sexual harassment is at rise in the society, therefore, it has to be curbed with iron hand.

5. We have heard the learned counsel for the parties and gone through the record.

There is no denial to this fact that this Court being the ultimate court of law has to decide the cases keeping in view the dictates of justice in order to establish safe administration of criminal justice. No doubt there is allegation of sexual harassment which has been made on the basis of sharing certain photographs on social media. The trend of such like activities undeniably is at the verge of rise which clearly shows concerns towards the downfall of the society, but at the same time, a duty is cast upon the court to see whether from the facts and circumstances the case of bail is made out. To resolve this issue, we undesirably asked the Investigating officer to show us the material collected during the course of investigation. We have observed that there are certain photographs which could be termed as close to nudity but those are not recognizable. The other photographs are in full attire without any question of immorality. This aspect persuaded us to grant post-arrest bail to the petitioner, as he is behind the bars since more than 03 months and this issue can be resolved by the Trial Court after

recording of evidence more authoritatively. As the liberty of a person is a precious right which has been guaranteed, therefore, we are persuaded to grant post-arrest bail to the petitioner subject to his furnishing bail bonds in the sum of Rs.200,000/- (rupees two hundred thousand) with two sureties in the like amount to the satisfaction of the Trial Court. Resultantly, this petition is converted into appeal and allowed and the impugned order is set aside.

JUDGE

JUDGE

Islamabad, the  
17<sup>th</sup> of September, 2021  
~~Not~~ approved for reporting  
Waqas Naseer/ \*