

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL

MR. JUSTICE AMIN-UD-DIN KHAN

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

CRIMINAL PETITION NO.863-L OF 2021

(Against the order dated 01.06.2021 of the
Lahore High Court, Lahore passed in Crl. Misc.
No.29729-B/2021)

Muhammad Ajmal

...Petitioner(s)

Versus

The State and another

...Respondent(s)

For the Petitioner(s):

Mr. Shahid Azeem, ASC

For the State:

Mr. Tariq Rafiq Bhandera, ASC
Um-e-Habiba, S.I.

For the Complainant(s):

Mr. Seerat Hussain Naqvi, ASC

Date of Hearing:

15.11.2021

ORDER

SAYYED MAZAHAR ALI AKBAR NAQVI, J.- Through the instant petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the order dated 01.06.2021 passed by the learned Single Judge of the Lahore High Court, Lahore with a prayer to grant post arrest bail in case registered vide FIR No. 51 dated 14.07.2020 under Sections 20, 21 and 24 of Pakistan Electronic Crime Act, 2016 at Police Station FIA Cyber Crime Circle, Lahore in the interest of safe administration of criminal justice.

2. As per the contents of the crime report, it is alleged by the complainant that the petitioner along with co-accused kidnapped his wife on 13.11.2019 and captured her objectionable videos by intoxicating her, a criminal case for kidnapping was lodged at Police Station Factory Area, Lahore. It was further alleged that the

petitioner and his co-accused have threatened and harassed him by sharing the video through Whatsapp from Mobile No.0305-7016978 to his mobile No.0300-2927130. The petitioner and his co-accused have also threatened the complainant to withdraw the case, otherwise they would upload the video globally.

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 the objectionable videos were shared by co-accused to whom concession of bail has already been extended. Further contends that the bail to the co-accused was granted on the basis of statement made by the victim herself. Contends that following the rule of consistency, the petitioner also deserves to be released on bail. Contends that there is no denial to this fact that the instrument used for sharing the video exists against the name of the co-accused. Contends that the case of the petitioner is at better footings as compared to the co-accused, therefore, he is entitled for concession of bail.*

4. *On the other hand, the learned Law Officer, assisted by the learned counsel for the complainant, opposed the grant of bail on the ground that during the course of investigation the petitioner was found to be with the co-accused who had acted under the patronage and instructions of the petitioner and he was declared as the main culprit. Therefore, the case of the petitioner is distinguishable from the co-accused and as such he does not deserve any concession of bail.*

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

There is no denial to this fact that it is very unfortunate that this occurrence had taken place wherein objectionable videos were shared setting the law in motion while attracting the provisions of Sections 20, 21 and 24 of Pakistan Electronic Crime Act, 2016. During the course of arguments, it transpired that the co-accused of the petitioner has already been granted bail on the basis of concessional statement made by the victim herself. Apart from this,

we have noted that the maximum punishment under the statute is 05 years which do not attract the prohibitory clause of Section 497 Cr.P.C. The learned Law Officer frankly conceded that the instrument used for sharing the objectionable video was of the co-accused and as such the case of the petitioner is at better footings as compared to co-accused. As the co-accused of the petitioner had already been enlarged on bail, therefore, the petitioner is entitled for the concession of post-arrest bail on the plea of consistency. Reliance is placed on the case reported as Muhammad Fazal @ Bodi Vs. The State (1979 SCMR 9) wherein this Court held as under:-

"Without going into the merits of the case and the various rulings mentioned in the petition for leave to appeal requiring our consideration and interpretation, we think that the petitioner should be released on bail on the principle of requirement of consistency in the same case and for the similar reason that the co-accused to whom a role similar to that of the petitioner was attributed had been so released by another learned Judge of the same High Court."

6. Prima facie there are sufficient grounds to take into consideration that the case of the petitioner is fully covered by Section 497(2) Cr.P.C. calling for further inquiry to his guilt. Consequently, we convert this petition into appeal, allow it, set aside the impugned order and admit the petitioner to bail subject to his furnishing bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of learned Trial Court.

JUDGE

JUDGE

JUDGE

Lahore, the
15th of November, 2021
Approved for reporting
Waqas Naseer/*