

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Appln. No.S-06 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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| 1. For orders on office objections. | |
| 2. For hearing of main case. | |

Applicant : Zain-ul-Abideen Shah S/o Jurial Shah
Through Mr. Ghulam Ali Talpur,
Advocate.

Complainant : Through Mr. Muhammad Idris.
Advocate

The State : Through Mr. Bashir Ahmed Almani, Assistant
Attorney General.

Date of hearing : 14.02.2025.

Date of Order : 28.02.2025.

ORDER

Abdul Hamid Bhurgri, J.- The applicant, having been unsuccessful in securing bail from the Trial Court in Crime No.16 of 2024, registered at the Police Station FIA Cyber Crime Reporting Centre, Hyderabad, for offences under Sections 20, 21, and 24 of PECA-2016, now seeks post-arrest bail through the instant bail application.

2. According to the prosecution's case, as recorded in the FIR, Enquiry No.136 of 2024 was initiated at the Police Station FIA Cyber Crime Reporting Centre, Hyderabad, following a complaint lodged by Mst. Faiza Kausar against the applicant. The allegations pertain to blackmail, threats, and the unauthorised dissemination of her obscene images and videos via social media platforms. Upon investigation, the applicant was apprehended by the FIA police, and a VIVO mobile phone associated with a WhatsApp account (+923154528831) was recovered. The said device was subsequently dispatched to the Forensic Laboratory, the report of which substantiated the allegations leveled by

the complainant. Consequently, the present FIR was formally registered against the applicant.

3. The learned counsel for the applicant has ardently contended that his client is innocent and has been falsely implicated by the complainant as a means of blackmail. He has argued that the FIR was lodged after an undue delay of approximately five months, for which no cogent explanation has been provided. Moreover, he asserts that there exists no tangible evidence on record to substantiate the claim that the applicant transmitted or shared the alleged images or videos of the complainant. The learned counsel further maintains that the FIA has misapplied the alleged offence and, therefore, it does not fall within the prohibitory clause of Section 497 of the Code of Criminal Procedure. Since the applicant has remained incarcerated since his arrest and no further investigation is required, the counsel has prayed for his release on bail. In support of his plea, he has relied upon judicial precedents, including Ahmad Khalid Butt v. The State (2021 SCMR 1016), Muhammad Daniyal Farrukh Ansari v. The State (2021 SCMR 557), Sohail Ahmad v. The State (2022 YLR 2210), and Abdul Rehman v. The State (2024 YLR 1008).

4. Conversely, the learned counsel for the complainant has argued that the accused is explicitly nominated in the FIR, with specific allegations of blackmail and harassment. He has contended that the applicant used his own registered WhatsApp number to transmit the complainant's nude images and videos. The forensic laboratory report has conclusively affirmed the presence of such explicit content on the applicant's device. Given the gravity of the offence, which violates societal norms, the counsel has submitted that the applicant's plea for bail ought to be rejected. In substantiation of his argument, he has cited legal precedents, including Abdul Rehman v. The State (2022 SCMR 526), Saleem Khalid v. The State (2021 P.Cr.LJ 119), Fakhar Zaman v. The State (2023 P.Cr.LJ 496), and Muhammad Haseeb v. The State (2024 P.Cr.LJ 1462).

5. The learned Assistant Attorney General has argued that the prosecution has amassed compelling evidence that unequivocally links the applicant to the commission of the alleged offence. In light of the severity of the transgression and its implications for societal order, he has urged the court to withhold any leniency in this matter.

6. Having heard the arguments advanced by the learned counsel for the applicant, the learned counsel for the complainant, and the learned Assistant Attorney General, and upon meticulous examination of the case record, the following observations are made:

7. The complaint has been lodged by Mst. Faiza Kausar against the applicant, alleging blackmail, intimidation, and the dissemination of her obscene images and videos via social media platforms. During the course of the investigation, the applicant was apprehended by the FIA police, and a VIVO mobile phone, linked to WhatsApp account number +923154528831, was seized. The said device was forwarded to the Forensic Laboratory, the findings of which substantiated the complainant's allegations. The aforementioned WhatsApp number is admittedly registered in the applicant's name.

8. The allegations levelled against the applicant are of a grave nature, involving a blatant violation of the victim's dignity and privacy. The digital evidence gathered prima facie establishes the applicant's involvement in the unauthorised dissemination of obscene material. The act of distributing explicit content online has far-reaching consequences, not only for the victim but also for her immediate family members, subjecting them to profound psychological distress. Such acts cannot be overlooked by the courts in cases of this nature.

9. The contention of the applicant's counsel regarding the delay in lodging the FIR holds no merit, as delays in such cases are a common occurrence. Victims often refrain from reporting such incidents immediately due to fear and concerns regarding their modesty. As regards the applicant's counsel's argument that bail should be granted since the case does not fall within the prohibitory clause, it must be

noted that the courts are obligated to consider the gravity of the offence and its repercussions on society. The present case exemplifies a situation where judicial prudence demands caution in the granting of bail. Permitting bail in such instances may establish an adverse precedent, potentially deterring victims from reporting similar offences in the future.

10. Reliance is placed on the case law, including Abdul Rehman v. The State (2022 SCMR 526), Muhammad Haseeb v. The State (2021 P.Cr.LJ 1462), Imran Sarwar v. The State (2022 P.Cr.LJ, page 71), and 2018 YLR 239. The possibility of the applicant tampering with digital evidence or intimidating the victim cannot be ruled out. Considering the gravity of the allegations, the nature of the offence, and the potential psychological impact on the victim, this court is not inclined to grant bail to the applicant at this stage.

11. Accordingly, the bail application is rejected along with pending listed applications (if any).

12. It is, however, categorically clarified that the observations articulated herein are tentative and shall neither prejudice nor preempt the merits of the case at the stage of trial.

Hamid Raza
JUDGE