

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Bail Application No. S-429/2021.

Date of hearing	Order with signature of Judge
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1. For Orders on office objection.
2. For hearing of bail application.

ORDER.
16-08-2021.

Mr. Qurban Ali Malano, advocate for the applicant.
Mr. Munir Ahmed Siyal Special Prosecuotr FIA.
Mr. Muhammad Hamzo Buriro, DAG.

AMJAD ALI SAHITO J., Through the instant Crl. Bail Application, applicant Pir Syed Asif Hussain Sarhandi seeks post-arrest bail in crime No. 18/2021, offence u/s 16, 20, 21, 24 PECA 2018 r/w 506/B PPC registered at PS FIA, Cyber Crime Wing Sukkur. Prior to this, the applicant has filed such application, but the same was turned down by learned III-Additional Sessions Judge, Sukkur vide order dated 02-06-2021, hence he has filed instant bail application.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for applicant submits that applicant is innocent and has falsely been implicated in this case by the complainant; that sister of the complainant namely Mst. Sunena Shah was ex-fiance of son of applicant/accused, who shared her nude pictures and videos with him and she is equally responsible for the alleged offence; that allegations against the applicant are of issuing deadly threats, therefore he is not liable

for sharing obscene material; that it is very surprising that applicant was called during investigation and during his personal search, the I/O has recovered the incriminating material from him; that son of the applicant has only shown the nude video to the applicant in order to question her character as the sister of the complainant was engaged with the son of the applicant, which was later-on broken; that the offence with which the applicant is charged is punishable up to five years and does not fall within the prohibitory clause of section 497 Cr.P.C; that the investigation has been completed and the applicant is no more required for further investigation, therefore, he prays for grant of bail. In support of his contentions, he relied upon the case of *Muhammad Daniyal Farrukh Ansari V. The State* reported (**2021 SCMR 557**).

4. On the other hand, Special Prosecutor FIA and learned DAG have vehemently opposed for grant of bail on the ground that it is offence against the society. In support of their contention, they relied upon case *Tariq Liaquat Ali Khan V. The State* (**2020 P.Cr.L.J 759**).

5. Complainant Mst. Nadia is present in the Court and raised her no objection for grant of bail to the applicant/accused.

6. I have heard learned counsel for applicant, learned Special Prosecutor FIA as well as learned DAG and have gone through the material available on record.

7. From the contents of FIR, it appears that Sunena the sister of complainant came into contact with co-accused Pir Muhammad Umar Sarhandi through (social media) the Instagram ID in the name of Pir Sain 007. The contact remained active between them and such relationship turned into friendship and then into engagement of victim Sunena sister of complainant with co-accused Pir Muhammad Umar the son of the applicant. It is astonishing to note that during the investigation, the applicant/accused was called by the investigating agency and during search the incriminating material was recovered from his possession, which is not appealing to the prudent mind. In such circumstances, usually the accused used to delete/destroy the evidence, but he/applicant has kept the material in his mobile phone which requires further inquiry. The offence with which the applicant/accused is charged is punishable up to five years and does not fall within the prohibitory clause of section 497 Cr.P.C. Reliance is placed on the case of *Muhammad Daniyal Farrukh Ansari v. The State* reported in **(2021 SCMR 557)**. No exceptional circumstances had been pointed out to refuse concession of bail to the accused. Complainant Mst. Nadia is present and states that she has no objection for the grant of bail to the applicant/accused. No purpose would be served to keep the applicant in custody as the investigation has been completed and he is no more required for further investigation.

7. In view of above discussion, learned counsel for the applicant/accused has made out a good case for grant of bail in the light of sub section (2) of Section 497 CrPC, hence the instant bail application is allowed and the applicant/accused is admitted to bail subject to furnishing solvent surety of Rs. 100,000 and P.R bond in the like amount to the satisfaction of learned trial Court. Learned trial Court is at liberty to take action against the applicant, if he misuses the concession of bail.

7. Needless to mention that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

J U D G E

Nasim/P.A