

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 2351 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

December, 2021

Mr. Salahuddin Ahmed, Advocate for applicant.
Mr. Habibullah Dahri, Advocate for complainant.
Mr. Mumtaz Gopang, AAG a/w SIP Shoaib Shahab, FIA, I.O. of the case.

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Omar Sial, J: Noman Qureshi has sought post arrest bail in crime number 12 of 2020 registered under sections 20, 21(1)(d) and 24 of the Prevention of Electronic Crimes Act 2016 read with section 419 and 109 P.P.C. at the F.I.A. Cyber Crime Reporting Centre, Karachi. Earlier, his application seeking bail was dismissed by the learned Sessions Judge, Karachi East on 4-11-2021.

2. A background to the case is that the aforementioned F.I.R. was registered on 25-4-2020 on the complaint of Sana Wahid. She reported that she and the applicant had a relationship and that in that relationship several intimate moments between the couple were photographed and video-taped. When the relationship went sour the applicant electronically transmitted the recorded intimate moments to the family and friends of the complainant as well as placed them on a social media platform by creating a fake account in the name of the complainant. It is also alleged that he blackmailed the complainant and sought moment from her for not making the material he had public.

3. I have heard the learned counsels for the applicant and the complainant as well as the learned Assistant Attorney General.

4. Learned counsel for the applicant has argued that the allegations against the applicant are untrue; that the two had been married and after the complainant sought khula from the applicant she turned malicious and herself transmitted the photos and blamed it on the applicant; that the complainant is blackmailing the applicant through this case as she is seeking "luxuries" from the applicant; that the money shown as having being received by the applicant from the complainant has not gone into his account but that it is a merchant account.

Learned Assistant Attorney General has passionately supported the bail dismissing order.

5. The material transmitted by the applicant from his phone has been shown to me during the hearing of this case. There is no doubt that the material transmitted would be the cause of grave embarrassment and humiliation to the complainant. The electronic trail of dissemination goes back to a phone admittedly owned and used by the applicant. The Facebook page, though initiated from a telephone number not owned by the applicant, was admitted as having been made by him before the F.I.A. F.I.A in its forensic investigation has also discovered that the Facebook page subsequently was being used by the applicant from his own mobile phone. The applicant admitted his guilt before the learned trial court who had then released him on 19-10-2020 conditionally under section 4 of the Probation of Offenders Ordinance, 1960, however the order was subsequently set aside.

6. I am cognizant that the punishment for the offence with which the applicant is charged falls within the non-prohibitory clause of section 497 Cr.P.C. However, keeping the principles enunciated by the Honorable Supreme Court in the Tariq Bashir vs 5 others (PLD 1995 SC 34) I am of the view that the circumstances of the present case are such that they fall within the ambit of exceptional and extra-ordinary grounds as envisaged in that case in order to decline a bail in cases falling within the non-prohibitory clause of section 497 Cr.P.C. The growing trend of blackmailing, humiliating and embarrassing people through unauthorized and illegal transmission of private content must actively be deterred. F.I.A. appears to be in possession of evidence that prima facie reasonably establishes the applicant's nexus with the offence complained of.

7. Above are the reasons for the short order of 23-12-2021.

JUDGE