

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**

Cr. Bail. Appl. No.560 of 2024  
Cr. Bail. Appl. No.1088 of 2024  
Cr. Bail. Appl. No.1278 of 2024  
Cr. Bail. Appl. No.1284 of 2024  
Cr. Bail. Appl. No.1849 of 2024  
Cr. Bail. Appl. No.2481 of 2024  
Cr. Bail. Appl. No.2539 of 2024  
Cr. Bail. Appl. No.2823 of 2024

Date	Order with signature of the Judge
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**11.12.2024**

Mirza Tanveer Ahmed, advocate for applicant in Cr. B.A.2539 & 2823/2024.

Ms. Farzana Abbasi, advocate for applicant in Cr. B.A. 2481/2024.

Raja Hassan Nawaz, advocate for applicant in Cr. B.A. 2823/2024.

Mr. Rashid Hussain, advocate for applicant in Cr. B.A. 1278/2024.

Mr. Zahid Farooq Mazari, advocate for applicant in Cr. B.A. 2481/2024.

Mr. Altaf Hussain, advocate for applicant in Cr. B.A. 1284/2024.

Mr. Muhammad Qasim, DAG a/w Amir Addl. Director FIA, SI-Shoaib, SI Syed Adnan Shah, Aijaz kalwar A.D. FIA.

Mir Saifullah, advocate for complainant.

**ORDER**

**MUHAMMAD IQBAL KALHORO J:** These applications filed for post arrest bail are disposed of by this common order as the facts involved are identical. According to which, complainant, different in each FIR, lodged a complaint with FIA stating that some unknown accused with different names were operating different WhatsApp groups through which they were disseminating/ displaying blasphemous material i.e. images/sketches, graphics, pictures and videos on social media, violating honour and respect of Almighty Allah, Holy prophet Muhammad (PBUH), holy book Quran, Umhat ul Momineen, Sahaba kiram.

2. Each complainant as a proof has submitted different mobile phone numbers with their complaint from which such content was being spread, uploaded and transmitted to different users of mobile phones. Apart from citing said numbers, complainants have also submitted screen shots of the blasphemous material for a probe.

3. After a preliminary enquiry, FIRs were registered by the FIA and reportedly Deputy Director FIA has been involved in conducting investigation thereof. A number of youths operating said WhatsApp groups and spreading blasphemous material on social media have been named in the FIR after enquiry and some have been identified later on during investigation, arrested and arrayed in the Challan. In all the bail applications, the applicants are in jail and the Challans have been submitted in the courts u/s 9,10, and 11 of Prevention of

Electronic Crimes Act, 2016 (PECA) r/w section 295-A, 295-B, 295-C, 298-A, 34 PPC. As the Challans have been submitted, it is not disputed that none of the applicants is required for further investigation. It appears that these kinds of FIRs were also registered in past by the FIA and accused were arrested, some of whom landed up before this court in bail applications and were granted bail.

4. Learned defence counsel while pleading for bail in all these cases have relied upon such orders granting bail to the accused in identical cases. One such bail order was passed in Cr. Bail Appl. No.2264/2023 on 22.12.2023 by a single bench of this court. The other order was passed by the undersigned in multiple bail applications on 05.06.2024. Besides citing those orders, learned defence counsel have argued that applicants are innocent, have been falsely implicated in the case; the seizure memo reflects that two mobile numbers were recovered from the applicants but none of them is mentioned in FIR; no specific role has been assigned to the applicants; they are not creators of the contents but are either receivers or transmitters thereof; FIA has not identified creator of such material; since lodgment of FIR, no independent forensic report of the mobile phones has been obtained by FIA; the FIA official who has allegedly examined mobile phones has not been made as a witness in the case; his report simply quantify that accounts were active on the mobile phones; that except recovery of mobile phones from the applicants, no evidence has been collected by the FIA against them; entire evidence is based on documentary evidence or recovery of mobile phones which are already in possession of FIA, hence there is no chance of any tampering with prosecution evidence by the applicants; that the trial court has dismissed bail applications of the applicants relying on FIA report that applicants have been using the said mobile phones; that at the time of recovery of mobile phones no independent person was associated to witness recovery proceedings, and hence even the recovery of mobile phones from the applicants is not without a question.

5. On the other hand, counsel for complainant has opposed bail to the applicants stating that the applicants are involved in the heinous offence whereby sentiments of Muslims have been breached; they were arrested alongwith evidence in shape of mobile phones and sims which they were using for operating WhatsApp groups involved in uploading/transmitting and spreading blasphemous contents against Holy personalities of Islam, hence they are not entitled to concession of bail. Learned DAG as well as A.D. FIA have also opposed bail.

6. I have considered submissions of the parties and perused material available on record. The record shows that a number of applicants are not named in the FIR, it was only through an inquiry or investigation, they were identified on the basis of possession of mobile phones and sims. However, the record does not reflect that recovered material has been subjected to a forensic examination by a third party. The Challans in these cases show that examination of all the seized digital equipments has been carried out by a technical assistant of FIA, CCRC Karachi, and till submission of the Challan, the digital forensic analysis report from digital forensic lab had not been received and was awaited. Only on the basis of a report of technical assistant, whose authority and authenticity are yet to be decided, the Challans have been submitted in the court. The question whether simply on the basis of a report of technical assistant, it can be prima facie held that applicants are accused of the alleged offence is yet to be determined. More so, since the entire evidence against applicants is based on documents and recovery of mobile phones and sims found to be involved in sharing blasphemous contents, there is no chance that applicants could tamper with prosecution evidence. Further, it is admitted by FIA officials during course of hearing that the original creator of such contents has neither been identified nor the original source of such material. Reportedly, the source is situated abroad in different countries. It is prima facie clear that the investigation of the FIA is restricted to only one aspect of the case, i.e. recovery of mobile phones using alleged WhatsApp groups by the applicants. The scheme and object behind the alleged offence i.e. getting different Pakistani youths involved therein has neither been identified by FIA nor any attempt has been made by it to go deep and dug out the actual devil behind it. The FIA has condescended to remain complacent over the optics only and has nabbed, so far, immature youths found taking interest in watching lucid websites. Nothing otherwise has been brought on record to outweigh obtaining opinion in the circumstances that FIA in this case has shirked its duty and has failed to track the actual obnoxious plan behind the whole scheme and the actual actors getting the young ones trapped in such activities. This court while deciding Cr. Bail Appl. No.2264/2023 on 22.12.2023 has observed in para 6 & 7 as under:-

6. No one stops the F.I.A. from proceeding against any offence. But its choices cannot be selective. In the present case, it is the F.I.A.'s version that the whole story originates from a WhatsApp group operated by unidentified operators from a country that we have, at the state level, always considered hostile to us. The content on these groups is outright horrendous and not restricted solely to blasphemous material. There are also indications of dissemination of child pornography. The F.I.A. should

investigate the blasphemy allegations, but it is not expected that a law enforcement agency be overwhelmed with emotion, not look at a potential crime wholly and professionally, and restrict their investigation to just one aspect when there are other serious ones in the situation. It should have been looked into if there is even the remotest possibility that an attempt to destabilise Pakistan is being made.

7. ....The issue at this stage is whether the applicant created and disseminated the blasphemous content. This doubt would have been significantly mitigated if the investigation officer documented his investigation well, sealed the phone when recovered, collected evidence which would stand the test of legal scrutiny, obtained a call data record, and obtained official ownership documents. The WhatsApp snapshots show that other persons might be receiving the images, which should have been brought within the ambit of investigation, too. Why was no investigation done on the WhatsApp group and the Facebook page from where the issue arises and when, according to the F.I.A., unidentified persons from a hostile country are the operators? It is a question that completely eludes a person. Cases such as the present one have the potential to arouse a lot of emotion and create instability. It is, therefore, imperative that the investigation is professional, complete and watertight. More effort needs to be taken at all levels to uphold and protect the honour of our religion but, at the same time, also prevent false accusations and the use of religion as a pretext to create instability in the country. Enemies of the country would then succeed in their nefarious designs.

7. Apart from above, the reports u/s 173 Cr.P.C. do not specifically show that whether data extracted from the mobile phones allegedly recovered from the applicants were edited by them or they have simply forwarded the material after receipt thereof from some unknown user and whether such blasphemous graphics are fake or genuine. Some of the applicants were arrested in December, 2023 and some reportedly were arrested in March ,2024 and they are in jail since. The undersigned while granting bail to different accused involved in identical cases vide order dated 05.06.2024 has observed in para 4 as under:-

4. Be that as it may, as the discussion in preceding para shows the entire case of prosecution is based on documentary evidence. The probative value of which needs to be determined in the trial. Applicants are in jail for more than one year, and meanwhile in this case investigation is completed and the challan has been submitted. Their incarceration is neither beneficiary to prosecution in any manner, therefore, nor is warranted on the ground of them being required for further investigation, not the least when in other cases of like nature still the Managers running the WhatsApp groups involved in this scam are yet to be identified and taken to the task. The case is already posted for evidence and it is reported that the forensic expert who

examined the alleged phones retrieved from the applicants has not been made witness in this case due to bar under section 510 Cr.P.C. But the question whether in the peculiar circumstances of the case where the only incriminating piece of evidence has genesis in his report, his examination as a witness is relevant or not needs to be replied. More so, applicability of Section 510 Cr.P.C. in this case, when the relevant forensic Lab pertains to FIA itself and one of its official has issued the lab report would be a circumstance before the trial Court to determine first before determining culpability of the applicants in this case.

8. The observations of this court reproduced above in the separate bail applications but in identical cases are relevant here and are mutatis mutandis applicable to the role alleged against applicants.

9. Therefore, in view of above discussion, I am of the view that the case against the applicants is of further inquiry, hence they are entitled to bail. The applications in hand are consequently allowed and applicants are granted bail in the sum of Rs.200,000/- and P.R bond in the same amount to the satisfaction of the trial court.

The observations made hereinabove are tentative in nature and would not prejudice case of either party at trial.

The bail applications are disposed of.

Office to place a copy of this order in connected bail applications.

**J U D G E**