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23/1/24

Form No.HCJD/C-121

ORDER SHEET

IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

Crl. Misc. No.31799-B/2019

Pervaiz Iqbal.

The State, etc

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge and that of parties or counsel, where necessary
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31.05.2019.

Mr. M. Mushtaq Ahmad Dhoon, Advocate for the petitioner.

Ms. Umme-ul-Baneen, Deputy Prosecutor General with Ijaz Ahmad, SI.

After having been unsuccessful before the subordinate court, Pervaiz Iqbal, the petitioner has sought post arrest bail in case FIR No. 14/2018 dated 20.01.2018, offence under Sections 295-A, 295-B, 109 PPC, registered at Police Station Piplan, District Mianwalai with the allegation that on 19.01.2018 at evening time, co-accused Muhammad Qaisar on asking and abetment of the present petitioner, defiled certain extracts of prayer book comprising of prayer book and Quranic verses in the toilet, hence this case.

2. Learned counsel for the petitioner submits that FIR was lodged after a delay of one day; that no private person has been associated in order to support the version of the complainant; co-accused Muhammad Qaisar has been allowed bail by the learned trial court Court and case of the petitioner is also at par with that of his co-accused.

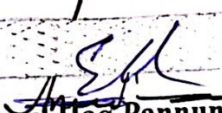
3. Conversely, the learned Deputy Prosecutor General has vehemently opposed the bail petition.

4. Arguments heard. Record perused.

Crl. Misc. No.31799-B/2019

5. After having given a careful consideration to the points listed above, I am of the view that it will not be proper to go into any deeper appreciation and to conduct a detailed examination of the material made available by the prosecution and the statement of the accused petitioner at bail stage, because any expression of opinion at this stage made prejudice the case of either party. Only a tentative view is to be taken of the material available. As per contents of FIR, the petitioner is specifically named in the FIR with the allegations of defiled certain extracts of prayer book comprising of Quranic verses in order to outrage the religious feelings of public at large. The role attributed to the petitioner is not a par with that of his co-accused Muhammad Qaisar who has been allowed bail by the learned trial court, therefore, no allowance can be extended to the petitioner. The allegations levelled against the petitioner are very serious and heinous in nature. *Prima facie*, sufficient incriminating material is available on record against the petitioner to connect him with the commission of alleged offence, which falls within the ambit of prohibitory, therefore, the petitioner is not entitled for the grant of relief of post arrest bail. As a result, the petition in hand is dismissed.

6. Before parting, it is observed that any observation made above shall not cause prejudice to the case of either party.


(Anwaarul Haq Pannun)
Judge

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IN THE COURT OF LAHORE HIGH COURT LAHORE.

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Crl. Misc. 31799 /B/2019

Pervaiz Iqbal S/O Muhammad Din Caste Hajjam R/O
Dooaba, Tehsil Piplan, District Mianwali.
(Presently confined in District Jail Mianwali). ✓

....Petitioner....

Versus

1. **The State.**

2. **Rasheed Ahmed** S/o Ghulam Hussain R/O P.S
Office Khas, Dooaba, Tehsil Piplan District
Mianwali.

....Respondents....

Particulars of the Case:

Case:	F.I.R No	365/2018
Dated:		20-01-2018
Offence U/S		295A, 295B, 109 PPC.
Police Station:		Piplan
District		Mianwali.

PETITION

Under section 497 Cr.P.C for grant of Post arrest
bail to the petitioner till the Final disposal of the
case.

Respectfully Sheweth:

1. That the brief facts giving rise to the filling this post-arrest bail petition are that the above referred criminal case has been registered against the petitioner at the instance of complainant/respondent no 2.

2. That the brief facts of the case are that some days prior to registration of FIR, he found a prayer book in his toilet. Again, on 19.01.2018, in the evening, the complainant along with witnesses reached in his drawing room. The co-accused Mohammad Qaisar came out from toilet attached with the drawing room. When the complainant along with witnesses went to the toilet, a prayer book was present there. When the complainant asked accused Mohammad Qaisar, accused told them that co-accused / petitioner Pervaiz Iqbal had pressurized him and had asked him to throw prayer books and quranic verse in the toilet. When complainant and witnesses asked the present accused / petitioner, he admitted before them that he had got done this job through Mohammad Qaisar. Hence, this FIR.

Copy of FIR is attached herewith as Annexure-A.

3. That the petitioner has applied for his post arrest bail before learned ASJ, Piplan District Mianwali which was dismissed on 07.05.2019. **Copy of Bail Petition & order of ASJ Mianwali is attached as annexure- B & C**

4. That the petitioner seeks post- arrest bail from this honorable court, inter-alia, on the following:

GROUND:

- a) That the petitioner is absolutely innocent and has falsely been implicated in offence and has committed no offence at all.
- b) That the entire story couched in the alleged FIR involving the present petitioner in the commission of alleged offence is totally false, frivolous and concocted one.
- c) That in fact, the petitioner has been involved in the present case by the complainant with the mala fide intention and ulterior motives.
- d) That the petitioner is absolutely innocent and has committed no offence at all.
- e) That the entire story couched in the alleged FIR involving the present petitioner in the commission of alleged offence is totally false, frivolous and concocted one.

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Copy of Bail Petition
Before High Court, Lahore

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- f) That the petitioner is the accused of abatement according to the contents of FIR, the petitioner instigate to throw prayer and other holy pages in the toilet. The story mentioned in the FIR is very interesting and it is beyond the thinking of prudent mind that why the co-accused used the toilet of the complainant twice for that purpose whether there is no toilet available in the locality and why the accused person chose the toilet of the complainant. Moreover the contents of FIR itself shows that the petitioner was nominated in FIR on the pointation of co-accused who has been declared unsound mind and his bail has been allowed by the learned Asj Piplan district Mianwali vide order dated 18.07.2018. Copy of bail application and order is annexed as Annexure D.
- g) That the petitioner has never been involved in any kind of criminal activity, the story regarding the instigation of throwing of holy pages in toilet is an afterthought story just to spread a wider net.
- h) That the petitioner is behind since his arrest and almost 1 and half year has been lapsed.
- i) That the petitioner is law abiding, previously Non-Convict and belongs to a respectable family.
- j) That investigation of the case is complete and petitioner is behind the bar and no more required for further investigation.
- k) That there is no apprehension of abscondance or tempering with the record if he is enlarged on bail and he undertakes to appear on each and every date of hearing.
- l) That there is no cavil with the proposition that whenever reasonable doubt arises with regard to the participation of an accused in the crime he should not be deprived of the benefit of bail. The bail cannot be withheld as punishment.

Reliance is placed on:

1. PLD 1972 SC 81

2. YLR 2005 P- 1828

- m) That from whatever angle it should be seen and taken, it is a fit case for the grant of post arrest bail requiring further probe and inquiry into the guilt of petitioner. Grant of bail dose not amount to acquittal

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it is mere transfer of custody from jail to a private person.

Reliance is placed upon:

P.Cr.L.J 2012 P-1293

- n) That benefit of doubt arising, if any, can be given at bail stage, for purposes of bail, law not to be stretched in favor of prosecution.

Reliance is placed on:

PLD 1972 SC 277

- o) That the petitioner is ready to furnish bail bonds to the entire satisfaction of this honorable court.
p) That the petitioner reserves his right to take further additional grounds at the time of final arguments of the bail petition.

PRAYER:

In the light of above mentioned facts and circumstances, it is, therefore, most respectfully prayed that this petition may very kindly be accepted and the petitioner may graciously be granted Post-Arrest bail in the above said case, till the final disposal of the case.

Any other relief which may this honorable court deemed fit may also be granted.

....Petitioner....

Through Counsel:



Justice Law Firm ®



MRS. NAILA MUSHTAQ AHMED DHOON P. MW 19676 0307-6726700 CNIC No. 34401-2978000-2 MEHWISH ASMA AWAN	M. MUSHTAQ AHMED DHOON P. MW 19803 0300-8064119 CNIC No. 38302-8687934-3 UZMA TARIQ
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Advocates High Court

Tehsil Complex Harnoli Morr, District Courts Mianwali & Siddiqi Plaza 9-Turner Road Lahore.

Certificate:

Certified, as per instruction, this is 1st post-arrest bail petition before this honorable court.

Counsel: [Signature]