

Form No:HCJD/C-121
ORDER SHEET
IN THE LAHORE HIGH COURT
LAHORE
JUDICIAL DEPARTMENT

For Private Use

Crl. Misc. No.58615-B/2021

Muhammad Yousaf VS The State and another

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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26.01.2022 Mr. Qaiser Abbas, Advocate for the petitioner.
Rai Asif Mahmood, Deputy Prosecutor General along with
Asif, SI with record.

At the very outset, learned counsel for the petitioner
wishes to withdraw this bail petition. The same is, therefore,
dismissed as having been withdrawn.

(Shehram Sarwar Ch.)
Judge

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IN THE LAHORE HIGH COURT, LAHORE.

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CrI.Misc.No. 58615 / 18/2021

MUHAMMAD YOUSAF, S/O Muhammad Latif Caste Rajput, resident of Mohallah Mandi Qasab, Tehsil Sahiwal, District Sargodha (presently confined at District Jail Sargodha).

PETITIONER

VERSUS

1. **THE STATE**

2. **MUHAMMAD ABDULLAH S/o Muhammad Mumtaz R/O Post Office Khas, Rabana, Tehsil, District Sargodha.**

RESPONDENTS

CASE/FIR NO: 393/2021
OFFENCE U/S 295-A, 298-A of PPC
POLICE STATION City Sahiwal District Sargodha.

Dated: 30.07.2021

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(HEAD EXAMINER)
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Lahore High Court, Lahore

PETITION UNDER SECTION 497 Cr.P.C. FOR THE GRANT OF POST-ARREST BAIL OF THE PETITIONER.

Respectfully Sheweth:-

1. That the above mentioned false, frivolous and baseless FIR was registered against the petitioner at the instance of complainant and the petitioner was arrested in the above mentioned case and sent to judicial lock up.
2. That the case against the petitioner is one of further inquiry regarding the commission of offence as petitioner is absolutely innocent incriminated on the basis of malafide intention of the complainant otherwise he has nothing to do with this case. As per prosecution story, on 17-07-21, accused/petitioner filthy and derogatory remarks against Holy personalities (Sahahba Karam) through comments and post on his face book ID. He outrages the religious feelings of the complainant of FIR and disheartens

the Muslim Community. For detailed prosecution story, copy of FIR is attached herewith as ANNEXURE-A.

3. That the accused/petitioner is absolutely innocent and has been roped in this case dishonestly / malafidely whereas the accused/petitioner is least concern with the alleged occurrence.

1. That after the registration of instant FIR the petitioner was arrested and being innocent filed his post arrest bail before Judicial Magistrate and the same was entrusted to the court of Mr. Muhammad Ismail Jasra, Learned Magistrate Section 30, Sahiwal, District Sargodha, who was please to dismiss the post arrest bail petition of the petitioner vide order dated 02.09.2021 Copy of bail application with order dated 02.09.2021 is attached herewith as ANNEXURE-B.

2. That after having aggrieved from the order dated 02-09-21 the petitioner moved his post arrest bail before the court of Shabraiz Akhtar Raja, Learned Additional and Session Judge, Sahiwal, District Sargodha, who was also please to dismiss the post arrest bail petition of the petitioner vide order dated 16.09.2021 Copy of bail application with order dated 16.09.2021 is attached herewith as ANNEXURE-C.

3. That the FIR has been lodged with malafide intention of the complainant whereas the accused/petitioner is absolutely innocent and has admittedly committed no offence. The accused petitioner applies for his bail after arrest on the following amongst others:

GROUND

- a) That the accused/petitioner is absolutely innocent and has falsely been roped by the complainant.
- b) That the case against the petitioner is false, frivolous, baseless and the complainant of the case, on the basis of concocted story falsely implicated the petitioner with the alleged commission of offence.
- c) That there is unexplained delay of about 13-days in lodging the instant FIR against the petitioner which has not properly been explained by the complainant.
- d) That the case against the petitioner is the result of malice, malafide and outcome of ill will of the complainant against the petitioner, the petitioner is booked in this case due

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Sd/-
Jalil Ahmad
Magistrate Section 30
Sahiwal
District Sargodha
Lahore

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to ulterior motives of the complainant and malafide of local police and local police arrested the petitioner maliciously, even otherwise, the petitioner is absolutely innocent and has committed no such offence.

- e) That the impugned FIR has been lodged without holding any inquiry and the impugned FIR has been lodged in violation of section 196 Cr.P.C. as the same has not been lodged on the complaint of court or some authorized officer for this purpose. *It is well settled principles of law that Offence under S.295-A, was not merely an offence against a particular individual, but for all intents and purposes it was against the State. Procedure required that a court could only take cognizance of such offence, if the complaint was made by order of the authority from the Federal Government or the Provincial Government, If same was not done within the mandate of S.196, Cr.P.C., such was not a curable irregularity. No complaint under S.295-A, could be lodged by a person directly, it ought to be made either by the Federal Government or the Provincial Government; or for that matter any person authorized on their behalf to lodge an F.I.R. under the said section. In the present case such qualifications of the complainant who lodged the complaint directly, were missing.*
- f) That offence u/s 298-A is bailable and offence 295-A is not attracted against the petitioner because ingredients of section 295-A is not fulfilled which is started with the heading that *"deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious belief"*. Whereas the petitioner has *no intention to outrages the religious feelings of any class of Muslim*. It is also pertinent to mention here that mandatory provision of section 196 of Cr.P.C is also not adopted.
- g) That FIR has been lodged without forensic analysis/report which leads for further inquiry and petitioner is entitled for concession of post arrest bail.
- h) That the petitioner is belongs to Muslim Family set of Ahal-c-Sunnat and in this regard the petitioner believed on ALLAH and all His Holy Prophets. He further

ATTESTED
C. M. H. Khan
Commissioner of Police

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admitted that he given respect to Holy Prophet being sacred in whole world and the petitioner gives respect from his heart to the religion of Islam and sacred peoples. The petitioner has great love and believed on Holy Personalities (Sahaba Karam) and cannot think about uttering derogatory remarks against Holy Personalities.

- i) That the people of the locality are ready to sworn through their affidavits regarding the innocence of the petitioner in which they claim to be true Muslim and petitioner having full faith in Personalities (Sahaba Karam).
- j) That the petitioner is previously non convict person who seeks for favourable & sympathetic consideration of this Hon'able Court.
- k) That the investigation has been completed and the petitioner is no more required for further investigation, the petitioner is behind the bars since his arrest and no useful purpose would be served by putting the petitioner behind the bars for an indefinite period and as such no progress is in the trial of the instant case.
- l) That as per dictum laid down by the superior court and as per intends of law, the grant of bail is only the transfer of custody of petitioner in the hands of surety and the same should be done for decreasing the burden on state and to provide a chance to petitioner to pursue his case properly.
- m) That it is legal obligation upon the Hon'able Court to shield and safeguard the honour, liberty of citizen, if it transpired after conclusion of trial that the petitioner was found innocent then the detention of the petitioner could not be compensated by state functionaries, hence it is better to release the petitioner than to keep the petitioner behind the bars for an indefinite period.

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Lehore High Court
10/11/2014

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- n) That there is no chance of ascendance or tempering with the prosecution evidence.
- o) That the petitioner is ready to furnish surety bonds to the entire satisfaction of this Honourable Court.
- p) That the other grounds available to the petitioner shall be submitted at the time of arguments.

PRAYER:-

Under the above mentioned circumstances, it is, therefore, most respectfully prayed that the petitioner may very graciously be granted post-arrest bail till the final decision of this case for the sake of justice.

PETITIONER

Through:


KAISER ABBAS
Advocate High Court
38402-1372609-5

Basement-1, Munawar Chamber, 2, Mazang Road, Lahore.

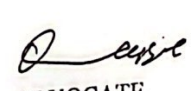
Dated: 23.09.2021




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Signature

CERTIFICATE:

As per instructions, this is 1st post arrest bail petition of the petitioner on the subject matter, before this Honourable Court.


ADVOCATE