

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

Criminal Misc. No. 499-B of 2022

Muhammad Bilal
Versus
The State

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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16.05.2022. Syed Mumtaz Hussain Sherazi, Advocate for the petitioner.
Mian Sabir Hussain, Assistant Director (Investigation), FIA CTW, Islamabad.

Through this petition the petitioner, Muhammad Bilal, is seeking post arrest bail in case, FIR No.08, dated 08.04.2021 registered under sections 295-A, 295-B, 295-C, 298-A, 109/34 PPC read with section 11 of the Prevention of Electronic Crimes Act, 2016 and sections 6(2)(f), 7(1)(g), 8 and 9 of Anti-Terrorism Act, 1997 at Police Station FIA/CTW, Islamabad.

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Act: Section 37 of the
Order: 1984
Islamabad High Court
Islamabad

2. The facts briefly are that the Federal Investigation Agency through Enquiry No. 12/2020 came to the conclusion that the petitioner was using a tumblr account with profile name "sharef2randian" as well as WhatsApp Accounts registered against SIM Nos. +923484475993 and +971545121795 for dissemination of blasphemous material. A

raiding team went to the petitioner's house and two mobiles phones which were allegedly used for sharing blasphemous content were recovered from the petitioner's possession. The petitioner was then taken into custody along with cell phones and a case under sections 295-A, 295-B, 295-C, 298-A, 109/34 PPC read with sections 11 of the Prevention of Electronic Crimes Act, 2016 ("PECA, 2016") and sections 6(2)(f), 7(1)(g), 8 and 9 of Anti-Terrorism Act, 1997 was registered against him.

3. Learned counsel for the petitioner contended that the petitioner was involved in the instant case with *mala fide* intent although the petitioner was not owner of the cell phone. That registration of the case against the petitioner was a result of connivance of one Mehrab Khan, S.I with FIA authorities. That there was nothing available on record which showed that any private person complained of sharing any objectionable material by the petitioner to the FIA. That the petitioner is behind bars since his arrest i.e. 08.04.2021 and is not required for any further investigation and his incarceration would not serve any useful purpose.

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4. The Investigating Officer submitted that the forensic report in relation to cell phone had been generated which established that the petitioner had used the phone recovered from him for dissemination of blasphemous material.

5. The law on bail is now well settled. In cases where the offence falls outside the non-prohibitory clause of section 497(1) of Cr.P.C., bail is to be granted as a matter of course and rejection of the same is an exception. Where, however, an offence falls within the prohibitory clause, bail can only be granted if the court comes to the conclusion that there is no reasonable ground for believing that the accused has committed a non-bailable offence or where an accused makes out a case of further inquiry into the guilt of the accused.

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6. In the instant case, the specific role of dissemination of blasphemous material has been attributed to the petitioner. A cell phone was registered in the name of the petitioner's father and recovered from the petitioner's possession was used for sharing blasphemous material. The objections raised by the learned counsel for the petitioner

regarding admissibility of the forensic report etc. cannot be taken into account at bail stage. There appears to be sufficient material available on record to connect the petitioner with the commission of the offence. And the offence that the petitioner is charged with falls in the prohibitory clause of section 497(1) of Cr.P.C. The learned counsel for the petitioner has failed to establish that the case of the petitioner falls within the ambit of further inquiry.

7. The challan in the instant case has already been submitted and the trial has commenced. In view of the law laid down by the august Supreme Court in Rehmatullah and another Vs. the State (2011 SCMR 1332) once trial has commenced, a court ought not exercise its discretionary jurisdiction to grant or cancel bail.

8. For the aforesaid reasons, this Court feels, as a *prima facie* matter, that sufficient material is available on record to connect the petitioner with the offence that he has been charged with and consequently he is not entitled to be admitted to bail. The instant petition is dismissed.

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5. Cri. Misc. No. 499-B/2022

9. Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which ought not prejudice the proceedings before the learned trial court.

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(BABAR SATTAR)
JUDGE

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