

Form No: HCJD/C-121
ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Misc. No.1617/2022

Ihtisham Ali Khan
versus
 The State and other.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	28.12.2022	Mian Ali Ashfaq, Advocate through video link. & Mr. Tahir Hussain Anchan and Malik Muhammad Fiaz Kandwal, Advocates for petitioner. Mr. Usman Rasool Ghumman, learned AAG. Rao Abdul Rahim, Advocate for complainant. Mr. Ilyas Khan, Inspector FIA.

Through this criminal miscellaneous the petitioner Ihtisham Ali Khan has prayed for his post arrest bail in case FIR No.152 dated 05.10.2022 under sections 11 of PECA-2016 r/w section 295-A, 295-B, 295-C, 298-A & 109 PPC, registered at police station FIA / Cyber Crime Reporting Centre, Islamabad.

2. Brief facts referred in the instant FIR lodged on complaint of Ch. Sayeed Anwar are as follows:

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 Examiner
 Copy Supply Section
 Authorized Order Article-87 of
 Qanun-e-Shahadat Order 1984
 Islamabad High Court
 Islamabad

"Consequent upon conclusion of enquiry No.RE-282/2022 of FIA Cyber Crime Reporting Centre, Islamabad, it transpired that the accused Ihtisham Ali Khan, s/o Ali Muhammad, R/o Muhallah Tajukhail, Post Office Mannki salah Tehsil Chohn Lahore, District Swabi, CNIC No.16201-1373243-1.

User of WhatsApp Account: +923085924011 and Facebook Profile having URL: <https://www.facebook.com/100078123181107> with criminal intentions & ulterior motives, illegally and unauthorized, created / developed and further uploaded / transmitted / disseminated as well as publicly projected / displayed blasphemous contents i.e. images / pictures, in respect of The almighty جلالة الله جل The Holy Prophet خاتم النبیین حضرت محمد ص الله علیه وسلم القرآن مجید The Holy ابد بیت رضی الله تعالی عنہا along with sacrilegious, loathsome narration / speech, using WhatsApp Account: +923085924011 and Facebook Profile having URL: <https://www.facebook.com/100078123181107> by participating with / in different Facebook Profile/s and WhatsApp Account/s Group/s and willfully defiled and outraged Religious Feelings, Belief as well as Spirit of Islam. Furthermore, during the

Course of enquiry in the subject case, WhatsApp Account +923085924011 along with Mobile Phone Set Vivo Y20, IMEI No:358729100099995 and IMEI No2.358729100099557, as well as Facebook Profile having URL: <https://www.facebook.com/100078123181107>, eing used in the commission of subject offences, were

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recovered from the aforementioned accused Ihtisham Ali Khan and taken into the possession of FIA through Seizure Memo/s dated 05.10.2022, before the witness. Sufficient incriminating evidence came on record against the accused Ihtisham ali Khan S/o Ali Muhammad, R/o Muhallah Tajukhail, Post Office Maanki Salali Tehsil Chota Lahore, District Swabi, CNIC: 16201-4373243-1, for his involvement in the commission of offence punishable u/s 11 of Prevention of electronic Crimes Act-2016 r/w 295-A, 295-B, 295-C, 298A & 109 PPC."

3. Learned counsel for the petitioner through video link has argued his case on the ground that the petitioner has been trapped in this case without any lawful justification even no incriminating material was prepared or disseminated by the petitioner, who has been involved on the basis of frivolous reports. It is further contended that the offence with which the

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Magistrate
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Court
Islamabad

petitioner has been charged requires deeper appreciation in the trial court and he could not be placed behind the bars only on the basis of forensic report. It is further argued that the petitioner is a young boy of 23 years old, commerce graduate, born in Hanfi Muslim family and no link has been established in the forensic report to the extent of

dissemination of blasphemous content which outraged the feeling of any segment of the society. It is lastly contend that section 11 of PECA, as well as section 298 does not fall within the prohibitory clause in this case.

4. Conversely learned Assistant Attorney General alongwith counsel for complainant and FIA as well as Investigation Officer of the FIA contends that the petitioner has directly been involved in this heinous crime and all the data recovered from his personal mobile phone as well as Facebook account connects him with the offence, who is violating the religious feelings of citizens of Pakistan.

5. Arguments heard, record perused.

6. Perusal of record reveals that the petitioner has been charged in the above mentioned case on the allegation of disseminating and uploading of unauthorized created / developed blasphemous content, images and pictures in respect of the almighty Allah, the Holy Prophet and Umahat ul

Momnin (امہات المؤمنین رضی اللہ تعالیٰ عنہا), as well as Ahl-e Bait, even desecrated the Holy Quran. The FIA authorities while conducting the raid recovered the mobile phone from the petitioner which has been verified through the Digital forensic analysis report and same confirms that the

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petitioner has a Facebook account "Ya Ru" and "Ihtisham Ali Khan", which was configured on his mobile phone. The Facebook conversation between scoped Facebook profiles "Ya Ru", "TaSbilun Shoni", "Sohni Heer" and "Heena Singh" has been found and extracted forensically using screenshot method of forensic tool UFED4PC where derogatory words and texts have been used by the accused about almighty Allah, Holy Prophets and spiritual personalities, even detailed chat logs were also recovered. All these aspects prima facie connect the petitioner with this heinous crime which left nothing in favor of petitioner, nor any ground of further inquiry has been demonstrated in this case and the offences under sections 295-A, 295-B, 295-C falls within the prohibitory clauses under section 497 Cr.P.C., where bail could not be granted in such type of offences has held in 2022 SCMR 1511 (Rohan Ahmad Vs State) and 2022 SCMR 1477 (Zaheer Ahmad Vs. The State). The Investigation Officer contends that challan has been submitted in the trial court on 07.11.2022. In such scenario, this court has been guided with the principle set out in 2011 SCMR 1332 (Rehmatullah Vs. State), hence, instant bail application is DISMISSED, and the trial court seized with the matter is directed to

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Examiner
Copy Supply Division
Authorised Officer
Qandari-Complaint Order 1984
Islamabad High Court
Islamabad

conclude the trial within a period of six months under
intimation to this court).

(MOHSIN AKHTAR KAYANI)
JUDGE

A.Waheed.

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Examiner
Copy Service Section
Authorized by the Article 17 of
Gangon-e-Shahadat Order 1994
Islamabad High Court
Islamabad

Application No. 12832
Date of Presentation of Application 19-6-23
Date of Deposit of Fee _____
No of Words _____
Copy Fee _____
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Court Fee of Application _____
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