

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-658 of 2025

Applicant : Abdul Bari son of Muhammad Akram,
Through Mr. Shafiq Ahmed Laghari, Advocate.

Complainant : Aqeeb Rehman s/o Muhammad Saleem
Through Mr. Khan Muhammad Sangi, Advocate

The State : Through Mr. Asadullah Rajper, Assistant Attorney
General

Date of hearing : 22.09.2025
Date of order : 02.10.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Abdul Bari seeks post arrest bail in a case bearing crime No.06/2025 offences u/s 20, 21 & 24 of PECA-2016 r/w section 506/2 PPC of PS FIA CCRC Sukkur. Prior to this bail of applicant was declined by learned Special Gender Based Violence Court/ IInd Additional Sessions Judge Sukkur vide order dated 28.04.2025.

2. As per prosecution theory set-forth in the FIR, an inquiry No.62/2025, dated 11.03.2025 was initiated at P.S FIA, Cyber Crime Circle Sukkur on the basis of written complaint of Aqeeb Rehman, regarding accused Abdul Bari's blackmailing, harassing, and threatening the complainant's sister using social media plat forms including Instagram (@nazish shhk and @nazish skhh) along with WhatsApp Nos. 0300-3433858 and 0334-2995576 to intimidate and coerce the victim into the physical relationship. The victim disclosed that accused had shared her private videos from his own numbers, and violated her privacy, causing severe distress. Despite her refusal, accused had continued to blackmail her, threatening to share more intimate material unless she complies. After seeking approval from competent authority, raiding party headed by S.I Muhammad Ali Sawand was constituted, who apprehended applicant and recovered mobile phone containing incriminating material. The mobile phone was subsequently dispatched for FSL, such report substantiate the allegations levelled by the complainant.

3. The defense argues that the connection between the accused and victim is a matter of old family disputes and mutual affection, claiming fabrication and asserting technical infirmities in the investigation. Learned defense counsel relied on verdicts reported as 2021 SCMR 1016 and 2025 SCMR 838 concerning bail in non-prohibitory clause offences, technical deficiencies, and absence of digital identification. These authorities emphasize

the fundamental principle that bail is the rule and jail is the exception, particularly in cases where investigation appears complete and the accused is no longer required for investigative purposes. The defense further presented the parents' joint statement dated 21.08.2025 recorded in roznamcha, interpreting alleged mutual relations and challenging forensic conclusions.

4. Counsel for the complainant invoked authorities including 2022 SCMR 526, 2025 YLR 1854, 2024 P.Cr.L.J 1462, 2020 P.Cr.L.J 1652, 2018 YLR 329, and 2018 P.Cr.L.J 1667, establishing refusal of bail in cyber harassment cases, especially those involving vulnerable women. These precedents emphasize the "exceptional nature" of digital blackmail and harassment, documenting lasting psychological and reputational damage. The case law consistently demonstrates judicial recognition that cyber harassment transcends mere technical violations and constitutes a serious assault on human dignity, privacy, and psychological well-being.

5. The learned Assistant Attorney General objected strictly to the grant of bail, reiterating overwhelming digital and testimonial evidence, societal harm inherent in such crimes, and emphasized judicial responsibility to deter similar offenses. The prosecution's stance reflects the State's compelling interest in protecting vulnerable individuals from digital exploitation while maintaining public confidence in the criminal justice system's ability to address emerging forms of criminality.

6. Section 20 of PECA 2016 penalizes cyber harassment through dissemination or display of obscene content targeting a person's dignity or privacy, while Section 21 addresses transmission of sexually explicit images without consent with punishment extending to five years and fine. Section 24 specifically criminalizes repeated acts of surveillance, harassment, or intimidation using digital platforms. The legislative intent behind these provisions demonstrates Parliament's recognition of the growing menace of digital crimes and their disproportionate impact on vulnerable segments of society, particularly women.

7. Offences under Section 20, 21, and 24 PECA do not fall within the ambit of prohibitory clause; nevertheless, the August Supreme Court has articulated exceptions where refusal of bail is warranted by exceptional circumstances, gravity, and societal impact. The rule of "*bail not jail*" is contextual, not absolute; it is inapplicable if circumstances place the matter beyond mere technical evaluation and implicate severe harm to individual dignity and collective morality.

8. Digital forensic analysis confirms a direct link between recovered devices, WhatsApp and Instagram communication logs, and explicit content directed toward the victim. The chain of evidence meets the confidence inspiring standard established in PECA jurisprudence, where courts have increasingly recognized the reliability of technical evidence when properly collected and analyzed through scientific methods. The forensic reports demonstrate systematic harassment patterns, deliberate targeting of the victim's privacy and dignity, and calculated efforts to intimidate and coerce through digital means.

9. The broader societal context reveals that cyber harassment disproportionately affects women globally, invoking judicial obligation to uphold dignity and safety beyond mere technical compliance. Courts have evolved their approach to treat such offences as "exceptional circumstances" warranting denial of bail, as highlighted by the Honorable Supreme Court in *Umer Khan versus State* (2022 SCMR 216). This evolution reflects judicial recognition that traditional bail criteria require recalibration in the digital age, where harm transcends physical boundaries and can cause irreparable damage to reputation, psychological well-being, and social standing.

10. In *Farhan Kamrani versus State* (2018 YLR 329), a university professor convicted for online harassment received severe penalty and fine, with the court stressing the enduring trauma, reputational loss, and need for judicial deterrence. This precedent establishes that educational qualifications and social standing do not mitigate the gravity of cyber harassment but rather enhance the need for exemplary treatment to maintain public trust and deter similarly situated individuals from engaging in such conduct.

11. The defense's reliance on the "non-prohibitory clause" fails when confronted with "exceptional circumstances," societal harm, and clear evidence. The Supreme Court in *Nazir Ahmed Bhaga versus State* (2022 SCMR 1467) and *Muhammad Anwar versus State* (2024 SCMR 1567) affirms judicial discretion to deny bail when societal and evidentiary requirements demand such action. These authorities establish that constitutional guarantees of liberty must be harmonized with equally fundamental rights of victims to dignity, privacy, and protection from harassment.

12. The constitutional framework under Articles 9, 10-A, and 14 guarantees liberty, due process, dignity, and fair trial, requiring courts to balance these rights carefully. However, this balance cannot be achieved at the expense of victim protection and broader societal interests. The constitutional scheme envisages that individual liberty, while fundamental, is not absolute and

must yield to compelling state interests, including protection of vulnerable individuals and maintenance of social order.

13. Technical and constitutional arguments raised by the defense proves insufficient to counter the compelling digital evidence and established judicial trend favoring deterrence in cyber harassment cases. The parents' joint statement suggesting mutual relationship, while noteworthy, cannot override technical evidence, victim testimony, and the systematic pattern of harassment established through digital forensics. Courts must be cautious about accepting after the fact explanations that appear designed to mitigate criminal liability rather than reflect genuine circumstances at the time of alleged offenses.

14. The Courts must recalibrate bail doctrine for cyber harassment cases, recognizing that protection of women's dignity, privacy, and safety in the digital era is as vital as safeguarding traditional concepts of liberty. The convergence of technical, digital, and testimonial evidence, when meeting requisite legal thresholds, creates exceptional contexts where denial of bail is warranted. This judicial approach reflects evolving understanding of how traditional legal principles must adapt to address contemporary challenges while maintaining fidelity to constitutional values and procedural fairness.

15. The prosecution has established an overwhelming prima facie case, corroborated by digital forensics, device logs, and credible witness accounts. The gravity and pattern of alleged cyber harassment, targeting the dignity and privacy of a vulnerable woman, constitute exceptional circumstances justifying departure from the general rule favoring bail. The systematic nature of the harassment, use of multiple digital platforms, and apparent calculated effort to intimidate and coerce the victim demonstrate a level of premeditation and harm that transcends ordinary criminal conduct.

16. The nature of digital evidence in this case provides compelling proof of the accused's involvement in the impugned activities. Unlike traditional crimes where evidence may be circumstantial or require complex interpretation, digital forensics provide direct, verifiable links between the accused and the criminal acts. The recovery of explicit content from the accused's devices, coupled with communication logs and platform registration details, creates an evidentiary matrix that strongly supports the prosecution's case while undermining defense contentions of fabrication or mistaken identity.

17. Contemporary judicial policy recognizes that cyber harassment represents a unique form of victimization that can cause lasting psychological trauma, social stigma, and reputational damage. Unlike traditional forms of harassment that may be limited in scope and duration, digital harassment can

persist indefinitely, be widely disseminated, and continue victimizing individuals long after initial incidents. This understanding compels courts to treat such offenses with particular gravity and to prioritize victim protection over abstract notions of liberty that may enable continued harm.

18. The balance between individual liberty and societal protection require careful consideration of evolving social norms, technological realities, and the state's obligation to protect vulnerable citizens. While the presumption of innocence remains sacrosanct, courts must also recognize that certain forms of criminality, particularly those involving systematic harassment of vulnerable individuals through digital means, may warrant exceptional measures to prevent continued harm and maintain public confidence in the justice system.

19. The evidentiary record demonstrates that the accused systematically exploited digital platforms to harass, intimidate, and threaten the victim with the dissemination of private content. The technical analysis reveals a pattern of conduct that transcends isolated incidents and reflects deliberate, calculated efforts to cause psychological harm and coerce the victim into unwanted relationships or activities. Such conduct represents a grave violation of personal autonomy, dignity, and privacy that strikes at the core of individual rights protected by the Constitution.

20. The legislative framework embodied in PECA 2016 reflects Parliament's determination to address the growing menace of cybercrimes and their particular impact on vulnerable populations. The specific provisions targeting harassment, stalking, and non-consensual sharing of intimate content demonstrate recognition that traditional criminal law concepts require adaptation to address digital-age harms. Courts must interpret and apply these provisions in a manner that gives effect to their protective purpose while maintaining appropriate procedural safeguards.

21. The institutional role of courts in protecting vulnerable individuals from emerging forms of harm cannot be divorced from broader considerations of social policy and public welfare. While individual cases must be decided on their specific facts and legal merits, courts must also be mindful of the broader implications of their decisions for similarly situated victims and the effectiveness of legal protections against digital harassment.

22. The defense arguments regarding mutual consent and family disputes, while deserving consideration, must be evaluated against the backdrop of systematic digital harassment patterns and victim testimony. The suggestion that the relationship was consensual does not negate the criminal nature of threatening behavior, harassment, or non-consensual sharing of intimate

content. Moreover, the technical evidence provides objective verification of the accused's involvement that cannot be easily dismissed through alternative explanations.

23. The parents' joint statement, while potentially relevant to understanding family dynamics, cannot override the legal obligations to protect victims from harassment and uphold the integrity of criminal proceedings. Courts must be particularly cautious about accepting family-mediated resolutions in cases involving gender-based violence or harassment, recognizing the potential for coercion, social pressure, or inadequate protection of victim rights.

24. The broader implications of this case extend beyond the immediate parties to encompass the effectiveness of legal protections for victims of cyber harassment and the deterrent effect of judicial responses to such crimes. The decision whether to grant or deny bail in such cases inevitably sends signals about the seriousness with which courts view these offenses and their commitment to protecting vulnerable individuals from digital exploitation.

25. Therefore, after careful consideration of all circumstances, arguments advanced by learned counsel, case law cited, and the serious nature of allegations supported by substantial evidence, this Court finds that the applicant has failed to make out a case for grant of post arrest bail. The exceptional circumstances present in this case, involving systematic digital harassment of a woman, substantial technical evidence, serious societal implications, and the need to prevent similar crimes, justify departure from the general rule of granting bail in non-prohibitory offenses.

26. Given the above, *prima facie* applicant has failed to make out case for further inquiry as envisaged u/s 497(2) Cr.P.C. Accordingly bail application is dismissed. However, these observations are tentative in nature and shall not prejudice trial court proceedings. The trial court is directed to expedite proceedings to ensure speedy justice.

J U D G E