

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 995 of 2020

Noman Qureshi s/o Farooq Qureshi.....Applicant

Versus

The State.....Respondent

Date of Hearing and Order :- **21.07.2020**

Syed Jawed Shahid Naqvi, advocate for applicant
Complainant Sana Wahid in person
Mirza Tanveer Ahmed, Law Officer
Ms. Durdana Tanveer, AAG
Saalim Rind Inspector FIA Cyber Crime Karachi

ORDER

Fahim Ahmed Siddiqui, J: The applicant has filed the instant bail application for seeking bail in a case registered against him vide Crim No. 12/2020 u/s 20, 21(1)(d), 24 of PECA, 2016 and 419/109 PPC lodged at PS FIA (Cyber Reporting Centre), Karachi.

2. I have given cautious consideration to the arguments advanced from either side and have gone through the entire material placed before me. From whatever articulated and placed before me, I have observed as under:

- (a) The complainant has approached the Cyber Reporting Centre of FIA with an application against the applicant regarding recording and spreading her obscene pictures. As such enquiry was conducted and the matter was found cognizable being a cyber offence.

- (b) During the course of investigation, the obscene cinematographic materials of the complainant were recovered from the mobile device of the applicant.
- (c) It is also collected by the prosecution that the same mobile device was used through the internet and cyberspace and clouds were used for transmitting the said material.
- (d) It is the defence of the applicant that the complainant was his wife and she got khula in one-sided family court proceedings. I am of the view that such a plea does not improve the case of the applicant as even a husband is not authorized to keep obscene photographs and videos of his wife.
- (e) The applicant's defence plea regarding marriage was also controverted by the complainant, who says that the said marriage was the result of blackmailing by using those obscene materials. It appears from the record that such obscene material was created even after such marriage and the same was allegedly made viral.
- (f) Although it is alleged by the applicant that the prosecution cannot establish that the said obscene material was made viral but I am of the view that it will not improve the case of the applicant that the said material was not made viral.
- (g) On the other hand, the prosecution has collected evidence that the said material was made viral and even those pictures were sent to the sister of the applicant.

- (h) The messages and cinematographic materials recovered from the mobile devices are of extreme vulgarity and the said materials were transmitted through WhatsApp and Facebook applications. If any message is sent through social media even if the same claims to be secure and it is limited to sender and recipient, it amounts to viral the same as once such messages enter into clouds of the application, chances of encrypting, re-encrypting, hacking and spreading remains there.
- (i) During the investigation, the prosecution has collected sufficient digitalized and other evidence to connect the applicant with the commission of a non-bailable offence and there exists no exceptional circumstances to extend the requested relief to the applicant.

3. In view of the above observation, I am of the considered opinion that at least at this stage, the applicant is not entitled to any concession, as such his bail plea was declined through my short order dated 21-07-2020 and these are the reasons for the same.

4. Before parting, I would like to make it clear that all of the above observations are purely tentative in nature and will have no bearing upon the trial of the applicants in any manner.

J U D G E