

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Bail Application No. 401 of 2022

Applicant : Syed Adrish Bukhari s/o Syed Amjad Ali
Shah, through Mr. G. M. Bhutto, advocate

Respondent : The State, through Mr. Khursheed Javed, Asstt.
Attorney General along with complainant Syed
Ali Jafar, victim Syeda Wahi Fatima and I.O/
S.I. Ambreen Niaz, F.I.A., CCRC, Karachi.

Date of hearing : 06.04.2022
Date of order : 06.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Syed Adrish Bukhari s/o Syed Amjad Ali Shah seeks post-arrest bail in Crime No. 39/2021, registered at P.S. F.I.A. CCRC, Karachi under section 16, 20, 21(2), 24 of Prevention of Electronic Crimes Act, 2016 read with Section 109, P.P.C. His earlier application for the same relief bearing No. 23/2022 was dismissed by the Judicial Magistrate-I, Malir, Karachi vide order, dated 14.02.2022 and subsequent application bearing No. 755/ 2022 was dismissed by the learned Sessions Judge Malir, vide order dated 23.02.2022.

2. Precisely, the allegation against the applicant is that he configured fake ID of his minor wife/victim Wahi Fatima and he and his sister/co-accused Mst. Dania Bukhari intentionally and publically transmitted her obscene images and videos to her family members, relatives and family friends through social media i.e. Facebook and WhatsApp, for that he has been booked in the F.I.R.

3. Learned counsel for the applicant contends that applicant is innocent and he has falsely been implicated in this case; that the alleged incident was a result of common misunderstanding between applicant and the victim girl, who are husband and wife inter se; that as per F.I.R. the alleged obscene images of the victim girl were transmitted through the cell phone of the co-accused, namely,

Mst. Dania Bukhari, who has already been admitted to bail; that the alleged victim girl hacked the cell phone of the applicant and transmitted her obscene images from it and also saved the same in her cell phone; that the interim Challan has already been submitted by I.O., therefore, the custody of the applicant is not required for the purpose of further investigation; that the alleged offence does not fall within the prohibitory clause of section 497, Cr.P.C., hence the applicant is entitled to concession of bail.

4. Conversely, learned Assistant Attorney General opposes the grant of bail to the applicant on the grounds that the applicant has been nominated in F.I.R. for the commission of alleged offence, which has seriously damaged the honor and prestige of the victim girl; that tangible physical evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the relief of bail.

5. Heard the learned counsel for the parties and perused the material available on record with their assistance.

6. It is alleged in the F.I.R. that the victim girl after her matriculation got married with the applicant, on 22.12.2020, who from February 2021, started forcing her for recording of obscene pictures and videos and on her refusal he used to beat and threaten her to pronounce divorce. She under pressure did what he wanted; however, later she took the decision of getting separation from him; in reaction thereof, the applicant threatened her for transmitting her obscene pictures and videos to her family members and relatives and then his elder sister Mst. Dania Bukhari using mobile number 0302-1929100 sent her obscene pictures on her mobile phone and to her family members, relatives and family friends.

7. It appears that during the course of initial enquiry a Facebook account was detected, created with the name of the victim girl, and through that account her obscene images/videos were also transmitted to her family members and

relatives. It also appears that the I.O. conducted a raid at the house of the nominated accused persons and seized from them (1) One iPhone-8, having IMEI No. 352992098431572 (2) One VIVO, having IMEI No.1: 863691047543592 and IMEI No.2: 863691047543584 (3) One iPhone-7, having IMEI No. 3553160875-60976 and (4) One HP Laptop Model#250G7. On initial technical examination of the alleged devices, the obscene images/videos of the victim girl and transmission thereof were found available in the aforesaid cell phones. It further appears that the applicant through his aforesaid VIVO cell phone configured two WhatsApp accounts numbers viz. 03328539090 and 03212323611 and he used No. 03328539090 for transmission of explicit videos of the victim girl to co-accused Mst. Dania Bukhari's WhatsApp No. 03021929100. It also appears that the fake Facebook ID of the victim girl was found active in the aforesaid iPhone-7 and through it explicit images of the victim girl were transmitted to her sister-in-law and others.

8. The applicant has been nominated in the F.I.R. with specific roll. The trial Court has granted bail to co-accused Mst. Dania Bukhari being a woman and observing her case on different footings. Prima facie, prosecution has sufficient evidence to connect the applicant with the commission of alleged offence, which though being punishable with imprisonment upto seven years does not fall within the prohibitory clause of section 497 Cr.P.C. yet in such like cases the grant of bail is not a right of an accused but a concession. Since the applicant is *prima facie* involved in a case of configuring fake ID of the victim girl and transmitting her obscene images and videos to her family members through social media, he is not entitled to the concession of bail simply for the reason that he is connected with such offence, which seriously affects the whole society. The applicant has apparently gone to grotesque lengths to humiliate the victim girl through social media, i.e. Facebook and WhatsApp, which may cause a detrimental effect on her. As observed by this Court in the case of *Farhan Kamrani*

v. The State (2018 YLR 329) the impact of transmitting obscene images and videos of a girl through social media is more than the shame and shock that one might feel when she discovers herself to be the victim of this crime. The immediate real time effect is the social stigmatization of the victim by blaming her for the pictures and questioning her character. This may lead to depression, social alienation and in some extreme cases suicide attempts by the victim who cannot handle the pressure of dealing with such targeted vengeance.

9. For the foregoing facts and reasons, I am of the view that the applicant is not entitled to the concession of post-arrest bail; therefore, this application is dismissed, accordingly.

JUDGE

Athar Zai